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IN THE SUPREME COURT OF THE STATE OF IDAHO

THE STATE OF IDAHO,)	Supreme Court No. _____
)	
Plaintiff-Respondent,)	
)	
vs)	COURT REPORTER'S TRANSCRIPT
)	
THOMAS EUGENE CREECH,)	
)	
Defendant-Appellant.)	

BEFORE
HONORABLE J. RAY DURTSCH
DISTRICT JUDGE

APPEAL from the District Court of the First
Judicial District of the State of Idaho, in and for the
County of Shoshone.

A P P E A R A N C E S

WAYNE KIDWELL, Esq. Attorney General of the State of
Idaho, Capitol Building, Boise, Idaho, for and on behalf of
the plaintiff-respondent.

BRUCE O. ROBINSON, Esq., Post Office Box 8, Nampa,
Idaho, appearing for and on behalf of the defendant-appellant.

1 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
2 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE
3
4

5 THE STATE OF IDAHO,) Cr. No. 2165
6)
7 Plaintiff,)
8)
9 vs) REPORTER'S TRANSCRIPT
10 THOMAS EUGENE CREECH,)
11)
12 Defendant.)
13 _____)

14 BEFORE
15 HONORABLE J. RAY DURTSCHI
16 DISTRICT JUDGE
17

18 BE IT REMEMBERED, That the above-entitled matter came
19 on for hearing and trial before the Honorable J. Ray Durtschi,
20 District Judge, with a jury, at Cascade, Idaho, May 20, 1975
21 through May 22, 1975, and at Wallace, Idaho, October 6, 1975
22 through October 22, 1975.
23
24
25

A P P E A R A N C E S

ROBERT REMAKLUS, Esq., Prosecuting Attorney, Cascade, Idaho, and
LYNN THOMAS, Esq., Deputy Attorney General, Statehouse, Boise,
Idaho, appearing for and on behalf of the plaintiff.

BRUCE O. ROBINSON, Esq., Post Office Box 8, Nampa, Idaho,
appearing for and on behalf of the defendant, and

WARD HOWER, Esq., Post Office Box 799, Cascade, Idaho,
appearing for and on behalf of the defendant.

1 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
2 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE
3
4

5 THE STATE OF IDAHO,

6 Plaintiff-Respondent,

7 vs

8 THOMAS EUGENE CREECH,

9 Defendant-Appellant.
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) Cr. No. 2165
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) LODGMENT OF COURT
) REPORTER'S TRANSCRIPT
) ON APPEAL
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)
)

15 RECEIVED from John W. Gambee, Official Court Reporter
16 of the above-entitled court, and lodged with me this ____ day
17 of _____, 1976, original plus _____ copies of
18 the Court Reporter's Transcript on Appeal.
19
20
21

22 CLERK OF THE DISTRICT COURT
23
24

25 _____
Deputy

1 WALLACE, IDAHO, WEDNESDAY, OCTOBER 15, 1975, 9:30 A.M.

2 (Jurors re-entered the courtroom.)

3
4 THE COURT: Let the record show the jurors are all
5 present.

6 MR. THOMAS: Sheriff Palmer, you want to take the stand
7 again, please.

8
9 E. C. PALMER,
10 a witness produced on behalf of the State, having been
11 previously duly sworn, took the stand and testified further
12 as follows:

13
14 DIRECT EXAMINATION (Continued)

15 BY MR. THOMAS:

16 Q. You understand you are still under oath.

17 A. Yes, sir.

18 Q. Sheriff Palmer, going back to yesterday, if I can
19 recall where we left off, you indicated that you had had a
20 number of conversations with Mr. Creech; is that correct?

21 A. That's correct.

22 Q. Was there an occasion in May of 1974 -- rather
23 1975, when you were traveling in aircraft with Mr. Creech?

24 A. Yes, I was.

25 Q. And did something happen to that aircraft?

1 A. Yes, it did.

2 Q. What was that?

3 A. We were on a flight, we were attempting to go over
4 some bad weather and we went to the altitude of approximately
5 14,000 feet, myself, an investigator from the State Police,
6 Bud Mason, defendant, Tom Creech, a Sergeant in my department,
7 Tom Taylor and a pilot by the name of Tom Ambrose. In going
8 above the weather we went high enough that Sergeant Taylor ran
9 out of oxygen and went kind of into a trance or similar to an
10 epileptic seizure, as I remember it, and Mr. Mason was attempting
11 to bring him around and get the oxygen back on him, revive him.

12 He was not responding so the pilot and myself
13 made the decision to drop down to a lower altitude into the
14 weather and attempt to get some better air for the Sergeant.

15 We dropped down through the clouds, we came out at
16 about 500 feet above the ground, the weather was very bad,
17 blizzard-type, snowing, raining. The Sergeant was still not
18 responding, we came out over a muddy road at an old abandoned
19 landing strip. There was a lot of water on the strip, we
20 decided to try to land on the road. We were still going
21 pretty fast.

22 As we descended rapidly and as we came in for a
23 landing we dropped the landing gear, flaps and we touched down
24 approximately 120 miles an hour, had a bad crosswind and we
25 were unable to keep the aircraft on the road. It blew us off

1 the side of the road, we went over a rise in the road, the
2 landing gear caught in a culvert, jerked the gear up, went up
3 on the nose wheel and nose wheel gave way. We skidded off the
4 road into the gutter; which was running full of water.

5 At this time it was total confusion in the cockpit
6 of that aircraft, the pilot had banged his face on the panel
7 board, there was a lot of steam from the engine in the water
8 and the Sergeant was still, at that time, as far as I knew,
9 not breathing.

10 Mr. Mason got ahold of the Sergeant, dragged him
11 out of the aircraft, Mr. Creech was sitting directly behind
12 me and we were sitting on an angle in the water and the water
13 was running right level with the door on my side. Everybody
14 was trying to get out of the aircraft, Mr. Creech was very,
15 very excited, screaming "The airplane is on fire" and I hit
16 him. I said "Settle down, we're okay, we're going to get out
17 of this." Settled him back down.

18 About that time Mr. Mason came back to the aircraft,
19 grabbed ahold of him and tried to pull him out of the airplane
20 and I said "Settle down, we're okay." He got him out of the
21 airplane, I got out of the airplane and started searching for
22 help.

23 We got up on top of -- the pilot went in one
24 direction, I went towards what we thought was some farm
25 buildings, turned out not to be farm buildings and the pilot --

1 regress just a little. On the way down I had been talking to
2 Salt Lake Center, we had been on instruments. We told them
3 we were in trouble, we were going down.

4 After the crash we started our emergency beeper,
5 that's a device on board the aircraft that sends out a distress
6 signal if you crash.

7 I started that beeper with the pilot's assistance
8 and, then, I left, started searching for help. The pilot went
9 in another direction.

10 Q Could I interrupt you here, Sheriff Palmer. Would
11 you describe Mr. Creech's demeanor at this time, or the time
12 after the plane went down?

13 A Mr. Creech was visibly shaken and very scared.
14 He was crying, we had him in shackles, was worried that he
15 was going to come out of the aircraft on that downhill side.
16 I didn't know how deep that water is and I was in fear that he
17 was going to drown.

18 I got him out and he was very rigid, tears was
19 running down his face and I got out of the aircraft and I
20 started talking with him and tried to bring him around to where
21 I could communicate with him. I was having trouble doing that
22 and he was straining at the handcuffs and his knuckles were
23 white; he was just beside himself. He was scared to death.

24 Q Did that condition continue for any period of time?

25 A Well, probably for the next four or five minutes,

1 something like that. I would say we continued to talk with him,
2 we were talking with the Sergeant getting everything squared
3 away. I unhandcuffed him and I think Mr. Mason shook him or
4 slapped him along the side of the face and said "Straighten up"
5 and then he came around, started communicating with us.

6 Q What do you mean "he came around"? Could you
7 describe that in a little more detail?

8 A Well, he became more coherent, we were able to talk
9 with him. He settled down and seemed to get his wits about
10 him.

11 Q Mr. Creech then remained outside the airplane until
12 you were picked up?

13 A We were inside and outside the airplane. It was
14 cold, we were trying to get in -- get out -- after I came back
15 from the search, which was to no avail.

16 Q Was he in the airplane with Mr. Mason any period
17 of time?

18 A Yes, he was. He was with Mr. Mason when I left him
19 and Mr. Mason was in the aircraft and Sergeant Taylor attempting
20 to keep warm.

21 Q And you were not present in the aircraft at that
22 time yourself with them; is that correct?

23 A No, they spent some time by themselves.

24 Q Was that after Mr. Creech had, as you put it,
25 "come around"?

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A. Yes.

Q Did you then at a later time get back in the aircraft yourself?

A. Yes, I did.

Q And did anything unusual happen with respect to the defendant?

A. Yes.

Q What was that?

A. Well, my gun fell out of my holster and I was setting in front and I didn't know it fell on the floor of the airplane and Mr. Creech was setting beside me. I went to get out of the airplane and he reached down and picked my weapon up and he held it between his fingers by the grips like this (indicating) and he said "Here, Sheriff, you lost your gun."

Q Were there any other armed persons around at that time?

A. Yes, there was.

Q After you had returned to the jail following this incident, did you at any time in June receive a tape recording from Mr. Creech?

A. Yes, I did.

Q Would you tell us the circumstances under which you received that tape recording?

A. Yes. I talked to Mr. Creech on numerous occasions and he sent me down a tape.

1 Q Could I ask you to tell me how he sent you down
2 the tape and what you mean by that, specifically?

3 A I'm not real sure whether he sent the tape down
4 via the Lieutenant in charge of the jail division or whether
5 he handed it to me himself. I've forgotten.

6 We were in an interview in my office and I don't
7 know whether Mr. Segal, who is a Lieutenant in charge of the
8 jail, was at that interview also; whether he handed me the
9 letter or whether Mr. Creech handed me the letter. But, I
10 received that letter that day and that way.

11 Q The letter or the tape; is that what you are
12 talking about?

13 A Excuse me, it was a tape.

14 Q Did Mr. Creech have a tape recorder in his cell
15 at that time?

16 A If I might back up and correct a statement,
17 Your Honor.

18 I was referring to a letter that I had received.
19 The tape was not received that way. The tape was brought --
20 given to me by Mr. Creech.

21 Q And handed to you personally?

22 A Yes.

23 Q Did you listen to the tape?

24 A Yes, I did.

25 Q Was his voice on the tape?

1 A. Yes, it is.
2 Q. Did he have a tape recorder in his cell?
3 A. Yes, he did.
4 Q. Do you have with you this morning, Sheriff Palmer,
5 a copy of a portion of that tape?
6 A. Yes, I do.
7 Q. Did you ask Mr. Creech to make this recording for
8 you?
9 A. No.
10 Q. Do you know why he gave it to you?
11 A. Yes.
12 Q. What was the reason for that?
13 A. I believe that he wanted me to have all the facts
14 involving this case.
15 Q. I see. And does it relate to facts relating to
16 this case?
17 A. Yes, it does.
18 MR. THOMAS: Your Honor, at this point we would like to
19 submit, under our regular procedure, the recording and I'm
20 sure the Court would want to consider that before it was
21 submitted to the jury.
22 THE COURT: We'll have to take this up out of your
23 presence, ladies and gentlemen. If you will remember the
24 admonition, don't discuss the case and keep your minds open
25 and we'll advise you when we're ready to proceed.

1 (Jury left the courtroom.)

2 Q BY MR. THOMAS: Sheriff Palmer, do you have the
3 recording and a recording machine with you?

4 A Yes, I do.

5 Q Would you now play it.

6 THE COURT: Just a minute. Have you heard this,
7 Mr. Robinson?

8 MR. ROBINSON: Yes, Your Honor.

9 THE COURT: You have heard it?

10 MR. ROBINSON: Yes.

11 MR. THOMAS: Mr. Robinson had not heard the edited
12 portion which was just finished.

13 MR. ROBINSON: I've heard the entire tape, Your Honor,
14 and there are extenuating circumstances surrounding this
15 particular act on the part of Tom Creech. But, I'm sure the
16 Court will want to inquire in -- I assume that I'm going to be
17 given an opportunity to question Sheriff Palmer regarding
18 those surrounding circumstances.

19 THE COURT: Well, again, I'm not interested in going
20 into things that bear on the weight in his testimony. I'm
21 interested at this time, out of the presence of the jury and
22 considering its voluntariness.

23 You have some matters to present as far as its
24 voluntary nature?

25 MR. ROBINSON: Yes, Your Honor, voluntariness and

1 motivation.

2 THE COURT: Do you have any objection to the contents of
3 the tape, apart from the question of voluntariness?

4 MR. ROBINSON: I would think not, Your Honor, and perhaps
5 I could make this representation to the Court in regards to the
6 surrounding circumstances.

7 THE COURT: Yes.

8 MR. ROBINSON: Rather than questioning, as the Court
9 knows on the 6th day of June of this year, I came before the
10 Court on a Motion for the Change of Attorneys for
11 Thomas Eugene Creech and it was late that afternoon that the
12 Court did make the approval of the change of attorney.

13 This letter that is being referred to is dated
14 June the 9th, on the very same day that I came --

15 THE COURT: I understand we're referring to a tape, not
16 a letter.

17 MR. ROBINSON: Yes, the tape followed the letter.

18 THE COURT: I see.

19 MR. ROBINSON: On the very same day, June the 6th,
20 Sergeant Solarzano and his partner, a law officer that starts
21 with an "S" -- Sheriff Palmer, do you recall his name right
22 offhand?

23 THE WITNESS: Yes, I do.

24 THE COURT: What is it?

25 THE WITNESS: Solar.

1 MR. ROBINSON: Both Deputy Sheriffs from the Sheriff's
2 office of Los Angeles County, Los Angeles, California, by
3 previous arrangements with Sheriff Palmer were there to interview
4 Tom Creech in regard to the McCoy Ranch and the burial of
5 many persons who had been sacrificed in Satanic Cult worship
6 ceremonies and the location of these bodies there and also at
7 Point Magoo; this not having specific information to do with the
8 case in Idaho.

9 I sat in on that session and I limited that session,
10 as Counsel for Tom Creech, only to the inquiry of occurrences
11 that took place in Los Angeles County and their search there
12 for those many bodies.

13 At a point in that interview they started to get onto
14 subject matter having to do with Idaho and other areas that I
15 was not fully aware of because I had been on the case a total
16 of, maybe, four or five days, one day officially, and I objected
17 and instructed Mr. Creech not to answer anything further until I
18 had an opportunity to get a handhold on the whole circumstances
19 of all involvements.

20 I was emphatic in this instruction. There had been
21 absolutely no rapport worked up between Mr. Creech and myself
22 at that time. I was a new man in his life, a new attorney and
23 he had already established a rapport with both Bud Mason and
24 Sheriff Palmer over seven and a half to eight months prior to
25 that date.

1 Consequently he was not only securing "commissary"
2 from other sources and developing his means and method of getting
3 along in incarceration and felt that I was an interfering
4 influence at this particular moment and to maintain and hold his
5 position, he gave first the letter and then using the tape
6 recorder that I had supplied to him, made a tape and delivered
7 that to Sheriff Palmer and made several comments on that tape
8 that I'm sure, with that background and light, the Court would
9 better be able to determine and interpret what he has said on
10 the tape and also in the letter.

11 My point is, Your Honor, that voluntariness, there
12 was no promise as such made to Tom, that I know of no benefits,
13 rewards were promised him, but the delivery of both the letter
14 and this tape were couched in the frame of mind that he was in
15 right at that transition period.

16 THE COURT: Do you want to lay any further foundation as
17 to voluntariness?

18 MR. THOMAS: Yes, Your Honor. I have just a question or
19 two more.

20 THE COURT: All right.

21 Q BY MR. THOMAS: Sheriff Palmer, do you remember
22 approximately the date you received this tape?

23 A No, I do not.

24 Q Was it following the conversation with Solarzano?

25 A Yes, it was several days.

1 Q Was it several days, or was it longer or shorter?

2 Do you have a more --

3 A I can't be any more specific than that, unless I
4 could refer to my notes and I'm not at all sure that they are
5 there. I'd have to research them.

6 Q Did you -- did anybody -- are you aware of anybody
7 in the jail that asked Mr. Creech to make that tape, make this
8 statement?

9 A Nobody asked him to make it.

10 Q It was -- was it completely voluntary on his part
11 as far as you know?

12 A Yes, it was.

13 MR. THOMAS: That's all I have, Your Honor.

14 THE COURT: All right, Mr. Robinson, you may cross
15 examine on this point, the voluntariness if you wish.

16 MR. ROBINSON: All right.
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CROSS EXAMINATION

BY MR. ROBINSON:

Q Sheriff Palmer, on the 6th day of June, this year, 1975, had you made arrangements for an interview with Sergeant Solarzano, I believe it's Detective Solar of the Los Angeles County Sheriff's office with Tom Creech and yourself?

A I'd have to answer that with a question. Is that the same day that you and I and the two detectives from California had that interview in my office?

Q Yes.

A If it is, that is correct.

Q All right. Now, there had been previous contact with those same two law enforcement officers of Los Angeles; had there not?

A Yes, there had.

Q And that is part of the transcript that's part of the record here, I believe?

THE COURT: I don't know that it is. I'm not aware if it is.

Q BY MR. ROBINSON: Had that previous interview been tape recorded and the tape transcribed?

A I don't believe so. I think you are referring to the one with Dykes. It could be, I'm not sure. Is this the one --

THE COURT: That's Dykes, that's the only one I know

1 about.

2 MR. THOMAS: I might just say, Your Honor, that we
3 transcribed it. I don't think Sheriff Palmer did. Mr. Robinson
4 does have a copy of the transcript that our office made.

5 MR. ROBINSON: May I approach the witness, Your Honor?

6 THE COURT: Yes.

7 Q BY MR. ROBINSON: Sheriff, I ask you to examine
8 that and see whether or not that's a transcript of a tape
9 recorded interview that occurred May the 12th, 1975 with
10 Solarzano, the other law enforcement officer with Tom Creech?

11 A Judge, this is a -- quite a lengthy transcript. I
12 was not present when it was taken, I know Solar and Solarzano
13 was up there and talked to him, but I was not present when this
14 was taken, to the best of my recollection.

15 Q All right. Now, this was an interview with
16 Tom Creech by Sergeant Solarzano prior to this return visit
17 when all of us were in your office in Boise?

18 A It appears to be so.

19 Q All right. So, there had been a previous
20 contact between the Los Angeles County Sheriff's office and
21 Tom Creech before this 6th day of June, 1975?

22 A It would appear so.

23 Q Now, during all of this period of time Tom Creech
24 was and had been in your custody in Boise, Idaho at the Ada
25 County Jail since November of '74; isn't that correct?

1 A. Yes, it is.

2 Q. And during this period of time several trips had
3 been made out of state with Tom Creech, yourself, Bud Mason and
4 other law enforcement officers of various states?

5 A. Yes.

6 Q. Now, on the session that occurred June the 6th in
7 your office, had that been a prearranged session, or interview
8 made through you by Solarzano?

9 A. Yes.

10 Q. And during the discussion of the matters covered on
11 that day, did there arise an occasion where I, as attorney, found
12 it necessary and did instruct Tom Creech very emphatically not
13 to discuss the matters any further?

14 A. Yes.

15 Q. And, as a matter of fact, that is the note that that
16 interview was terminated on; isn't that correct?

17 A. I believe that note was written before that. That
18 letter was handed to me that day at that interview.

19 Q. You are misunderstanding my question.

20 A. I'm sorry.

21 Q. Sheriff Palmer, the fact that I instructed Tom not
22 to answer wasn't that the manner in and the way which we closed
23 that interview on that date?

24 A. Yes.

25 Q. Now, as a matter of fact, this letter, I believe, has

1 been marked -- yes.

2 THE COURT: Sixty-one.

3 Q BY MR. ROBINSON: As No. 61 and if you'd avail
4 yourself of that, Sheriff Palmer, so you have the date of that
5 letter well in mind, June the 9th.

6 A. Yes.

7 Q So, that letter did come three days following the
8 interview with Solarzano?

9 A. Yes, it did.

10 Q All right. Had you personally, yourself, established
11 a rapport with Thomas Eugene Creech prior to the date of
12 June 6, 1975; that is, one of trust between -- at least Tom
13 trusted you?

14 A. I think to a degree he probably trusted me, not
15 totally and wholly.

16 Q Well, you had a relationship of you as keeper, his
17 custodian and a law officer and he was a prisoner?

18 A. Yes, he was.

19 Q And he had cooperated with you in many respects in
20 giving information regarding many out-of-state involvements
21 involving death?

22 A. Yes, he did.

23 Q Had Tom Creech, even during this period of time,
24 made you a promise and gave you his word he would not attempt
25 an escape from your custody?

1 A. Might I expand on that answer -- or that question
2 just a little bit, Your Honor, rather than a yes or no?

3 Q. As far as I'm concerned, yes, Sheriff Palmer.

4 A. He did give me his word, however he did attempt to
5 escape.

6 Q. Seriously?

7 A. I took it as a serious -- if you want me to explain
8 it, I will.

9 Q. Would you?

10 A. He cut his wrists in an attempt to get to the
11 hospital. It was a superficial wound, it was not bad enough to
12 go to the hospital and I looked at it and decided to keep him in
13 custody. He later on told me that he had people outside that
14 was going to break him loose when I took him to the hospital and
15 they were going to kill me.

16 On another occasion there was a saw blade smuggled
17 to the jail. He attempted to saw out, I don't know how serious
18 that was. We found the saw blade and got them out before he
19 made any headway to speak of. I took that as a serious attempt,
20 yes.

21 Q. All right. And when did those two attempts occur
22 in time?

23 A. I cannot recall the exact times. There was other
24 occasions that we had problems also and I don't remember the
25 exact times.

1 Q Do you recall whether or not those were prior to
2 this air flight that has been discussed?
3 A I don't think he tried to escape after that.
4 Q So, your testimony would be that any thought
5 expressed of escape occurred prior to the air flight which was
6 on May the 4th of '75?
7 A Right.
8 Q Now, the air flight, when Tom had possession of your
9 .357 magnum, it was loaded was it not?
10 A That was not a .357 magnum.
11 Q What was it?
12 A .38.
13 Q Straight police .38?
14 A Yes.
15 Q All right. And it was loaded?
16 A Yes, it was.
17 Q And, although you testified other law enforcement
18 officers had weapons, they were holstered; were they not?
19 A I'm sure they were.
20 Q At that time with that gun in his possession, was
21 it physically possible that Thomas Eugene Creech could have
22 killed the four of you?
23 A Very unlikely.
24 Q Very unlikely?
25 A Yes.

1 Q He didn't even make an attempt, however?

2 A He did not. If you want, there was other police
3 officers there, they had weapons and I was coming out of the
4 aircraft, I was within, you know, a foot of him, probably. If
5 he would have shot me first then I'm sure that Mr. Mason, who
6 was sitting right behind me and is a well-trained police officer
7 who had his hand on his gun as that came up, I doubt he'd have
8 killed more than one of us. If he'd have shot him first, I think
9 I'd have had a go round at him. I don't think we're that
10 sloppy.

11 Q Well, I wasn't inferring that, Sheriff, I'm just
12 wondering about the physical capabilities and the frame of
13 mind of Tom Creech at that time.

14 A I don't think he intended to kill us there. I
15 think that we were all in a bad spot, we needed each other to
16 get out of there. I think it would have been very foolish for
17 him to have killed me or any one of us.

18 Q Right.

19 A He was in trouble and as I was.

20 Q But, at the same time, at this point, May the 4th of
21 '75, a rapport had developed between you as Sheriff and
22 Tom Creech?

23 A I would say there was a rapport developed.

24 Q All right. And when this confrontation came on
25 June the 6th where, perhaps the first time in eight months of

1 his being in custody he was being advised by Counsel not to
2 say anything further, this was the first time in that eight
3 months that that had occurred; isn't that true?

4 A. Not exactly. He had.

5 Q. All right, explain.

6 A. He had been advised by his previous counsel not to
7 talk to us about anything in Idaho. But, he had been advised
8 to go ahead and discuss those crimes outside of Idaho.

9 Q. All right. Did you consider what occurred on
10 June the 6th of 1975, my instruction to Tom Creech not to speak
11 any further, as a confrontation between you and I?

12 A. Yes, I did.

13 Q. And did this upset you?

14 A. Yes, it did.

15 Q. And was that upset visible to Thomas Eugene Creech?

16 A. I might back up here. Did that upset me? Not
17 any more than it does -- I had been working with him, we had
18 been going along smoothly, yes. But, upset me to a degree that
19 I would have shown my anger, I might have, I don't know, you
20 know, my investigation is coming to an end I suppose I'm not
21 going to be able to talk to him any further.

22 Q. All right.

23 A. I don't know, possibly it would have shown.

24 Q. Was there any other reason in your estimation for
25 Tom Creech to have sent you a letter, other than to reinstate

1 himself in your good graces, or for that matter of fact, sent
2 you a tape recording?

3 A Yes, I think that we had talked and I had stated to
4 him on occasions that I felt that the truth should be known for
5 the Judge to make an intelligent decision. He should know what
6 had happened and I think that's why he sent me that tape, in
7 hopes that I would get it before the Court.

8 Q Under the condition then existing in June of this
9 year with Tom as an inmate in your jail, do you honestly feel,
10 yourself, that the letter, or the tape, were made voluntarily
11 by Tom Creech?

12 A Yes, I believe they were.

13 Q Without any feeling on his part of being rewarded
14 or continued to be maintained with some privileges?

15 A I don't think he was looking for privileges. I
16 don't really think so. I believe he made those in a sincere
17 effort to bring the truth out. I don't think he was looking for
18 any favors from me. I hadn't offered him anything.

19 MR. ROBINSON: May I just have a second, Your Honor.

20 (Brief delay.)

21 MR. ROBINSON: May I have just a second further and also
22 possession of Exhibit 61?

23 THE COURT: Yes.

24 MR. ROBINSON: No further questions, Your Honor.

THE COURT: Mr. Thomas?

1 MR. THOMAS: No, Your Honor.

2 Just for the record, though, I believe that the
3 Court made a statement a moment ago that this tape was received
4 on June 9. It seems to me that was the date of the 8th that
5 Sheriff Palmer did not testify that the tape was received on
6 the 9th of June, but that it was received a few days after.

7 THE COURT: Was the tape after June 9th?

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Okay.

10 Well, the relative dates still would hold.

11 MR. ROBINSON: I have one clarification I would like to
12 ask Sheriff Palmer about, Your Honor.

13 THE COURT: Yes.

14

15 RECROSS EXAMINATION

16 BY MR. ROBINSON:

17 Q Sheriff Palmer, subsequent to my getting on this
18 case in June, for the record, isn't it true and correct that
19 you did abide, as law enforcement officer, by my desires and
20 wishes not to have conferences with Tom Creech unless I was
21 present and that maintained itself; did it not?

22 A Yes, either you or your investigator.

23 Q Right. Now, as a matter of fact on this tape that
24 Tom sent, that was sent to you while I was in Vancouver,
25 Canada at the Alaska and Idaho joint Bar Association meeting,

1 around the -- or during the week of June 23rd, 1975. Do you
2 recall that now?

3 A. I recall you telling me you were going to Canada.
4 However, I don't remember when I got the tape; whether that was
5 at the time you were in Canada or not.

6 I don't remember that.

7 Q. And it's also very possible that on this tape
8 Tom Creech gave the date that he was dictating it?

9 A. Yes, it is.

10 MR. ROBINSON: I don't know, Your Honor, that that has
11 much bearing on it, because I do anticipate the Court's ruling
12 in this regard.

13 MR. THOMAS: I don't have any further questions,
14 Your Honor.

15 THE COURT: Have you -- do you have anything further to
16 present on the admissibility of this, as far as evidence,
17 Mr. Robinson?

18 MR. ROBINSON: I have nothing further regarding the
19 voluntariness, Your Honor.

20 THE COURT: I'd hear any argument you want to make, then,
21 if you want to say anything further.

22 MR. ROBINSON: Well, I smile, Your Honor, only because
23 getting up here and ad-libbing would be ridiculous using the
24 Court's time.

25 I have a feeling, having been involved there, that,

1 perhaps, there was a frame of mind that Tom was in at this
2 particular moment of transition and it's my feeling, of course,
3 that what he did say at that time, more than likely was a
4 voluntary statement.

5 I agree with the Sheriff, that he had been, many
6 times during the previous eight months, read his Miranda
7 rights. I'm sure that Tom understood them very correctly and
8 I would estimate the number of times not at 35, but, possibly,
9 135.

10 MR. THOMAS: Your Honor --

11 THE COURT: As far as the contents of the tape itself,
12 have you listened to the edited tape that's proposed?

13 MR. ROBINSON: No, I haven't and I would like that
14 opportunity.

15 THE COURT: All right, I'll have the -- can you keep the
16 volume down so it won't go into the jury room?

17 THE WITNESS: I believe so.

18 THE COURT: Do it. If you are having trouble hearing
19 you can step up here, Mr. Robinson, closer.

20 MR. ROBINSON: Fine.

21 THE COURT: I take it you've heard it, Mr. Thomas?

22 MR. THOMAS: Yes. Would you play it.

23 THE COURT: Why don't you come up here where you can hear
24 it, Mr. Robinson.

25 (Whereupon the edited portion of the referred to

1 tape was played out of the presence of the jury.)

2 MR. ROBINSON: That's as I recall it, Your Honor.

3 THE COURT: Do you have -- you had listened,
4 Mr. Robinson, to the original edited tape, you say?

5 MR. ROBINSON: Yes, I have, and I believe that I have a
6 copy.

7 THE COURT: Do you have any objection to matters that
8 have been left out? Are there matters left out that you feel
9 should be included to present the matter fairly?

10 MR. ROBINSON: Not in the State's case in chief,
11 Your Honor. I'm sure that in the defense of the matter that --
12 more than likely this, as well as other tapes will, more than
13 likely, be played in total with the Court's permission, of
14 course.

15 THE COURT: You are satisfied, then, that --

16 MR. ROBINSON: Those statements were made at that time.

17 THE COURT: All right.

18 I'm going to overrule the objection and find that
19 this was a spontaneous, not subject -- not the result of
20 interrogation by police officers, but was a voluntary statement
21 by Mr. Creech and since it was not the subject and the result
22 of interrogation by law enforcement officers, I feel, even
23 though it went contrary to instructions of his counsel, that
24 it is admissible as a voluntary statement and, particularly in
25 view of the fact that Mr. Creech had been warned many times of

1 his full rights under the Miranda Decision.

2 So, I will admit this edited tape recording.

3 MR. ROBINSON: May we have a few minutes, Your Honor,
4 before you do call the jury back in?

5 THE COURT: Yes, we'll take an additional five minutes.

6 (Recess taken.)

7 MR. THOMAS: Excuse me, Your Honor, just a little
8 procedural problem. May we have both the recorder and the
9 tape marked for identification as Exhibits at this point?

10 THE COURT: Yes, that's fine.

11 (State's Exhibits 63 and 64 marked for
12 identification.)

13 (Jurors re-entered the courtroom.)

14 THE COURT: Show the jurors are all present.

15

16 REDIRECT EXAMINATION (Continued)

17 BY MR. THOMAS:

18 Q Sheriff Palmer, you have there the tape recorder
19 and tape recording that you were referring to a short while
20 earlier, is that correct?

21 A Yes, I do.

22 MR. THOMAS: Your Honor, we move for the admission of
23 State's Exhibits 63 and 64.

24 MR. ROBINSON: The objection is noted by the Court and
25 I understand the ruling of the Court, but the record, I'd like

1 to show our objection, Your Honor.

2 THE COURT: Yes, the record may show.

3 All right, the objection is overruled,
4 Exhibits 63 and 64 will be admitted.

5 (State's Exhibits 63 and 64 admitted into
6 evidence.)

7 THE COURT: Which is which?

8 MR. REMAKLUS: The tape is 63 and the player is 64.

9 THE COURT: All right.

10 Q BY MR. THOMAS: Sheriff Palmer, here are Exhibits
11 63 and 64. Would you now play the recording for the jury.

12 (Whereupon the tape recording was played in the
13 presence of the jury.)

14 Q BY MR. THOMAS: Did you at any time, Sheriff,
15 ask for or solicit that tape from the defendant?

16 A. No, I did not.

17 MR. THOMAS: No further questions, Your Honor.

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1 FURTHER RECROSS EXAMINATION

2 BY MR. ROBINSON:

3 Q Sheriff Palmer, in your direct examination you
4 described this air flight that wound up in an air crash; is that
5 correct?

6 A Yes.

7 Q And approximately how long after the air crash was
8 it that Tom Creech came into possession of your police revolver?

9 A I would say probably an hour and a half or two
10 hours; something like that.

11 Q And how did he come into possession of that
12 police .38 revolver?

13 A It fell out of my belt, that's a clip-type holster
14 that clips onto my belt and, when I went to sit down in the
15 seat of the aircraft I, apparently, rubbed it against the
16 back of the seat and it fell off onto the floor of the airplane
17 and Mr. Creech was setting beside me when he reached down and
18 picked it up.

19 Q And how did he pick it up?

20 A Very gingerly.

21 Q In what manner? Was it between the thumb and
22 forefinger by the grip of the gun?

23 A Yes.

24 Q And handed it to you?

25 A Yes.

1 Q And said what?
2 A "Here, Sheriff, you lost your gun."
3 Q Was the gun loaded?
4 A Yes, it was.
5 Q Who else was present when that event took place?
6 A Mr. Mason was in the back seat, Sergeant Taylor,
7 myself and I don't believe -- I believe that was all that was
8 there.
9 Q Was Tom Creech handcuffed, shackled in any manner
10 at that time?
11 A No, he was not.
12 Q Did Tom make any attempt whatsoever to use that
13 weapon against you or the other law enforcement officers?
14 A No, he did not.
15 Q Now, prior to June the 6th of 1975, had
16 Tom Creech been very cooperative with you and Investigator
17 Bud Mason with the State Law Enforcement?
18 A Yes.
19 Q As a matter of fact, had there developed a rapport
20 akin to a friendship between you and Tom Creech, Bud Mason and
21 Tom Creech? I did say "akin to a friendship" not an absolute
22 friendship, Sheriff.
23 A Yes.
24 Q Did an event take place on the 6th day of June of
25 this year, 1975, involving my representation of Tom Creech in

1 an interview at your office where I instructed Tom, as his
2 counsel, not to make any further statements?

3 A. Yes.

4 Q. Did this upset you?

5 A. I suppose to a certain degree it did.

6 Q. And was the degree of upsetness visible at that time
7 and place to Tom Creech?

8 A. I don't know whether it was or not.

9 Q. He was still in the room at that time?

10 A. Yes, he was. I try not to show my emotions too
11 much, but I could have.

12 Q. All right. And in your estimation, were the letter
13 that you received June the 9th, 1975 and this tape of
14 June the 22nd, 1975 sent to you or given to you as a direct
15 result of that occurrence that took place on June the 6th, 1975?

16 A. No, I don't think so. Not as a direct result of
17 that.

18 Q. Would you explain?

19 A. I think that in our previous conversations I had
20 indicated that I felt all the facts involved in this case should
21 come out before the Court or the jury, on different occasions,
22 when I had talked to him.

23 I think this is the rapport that we had; that the
24 Counsel spoke of. He, at that time, felt possibly they were
25 not all going to come out and I had assured him that I would do

1 my best to bring everything out in court and I think that's
2 the reason that he sent me those tapes.

3 Q So, your comment, then, as I understand, was that
4 the event of June the 6th was indirectly responsible for, but
5 not directly responsible for the letter and this tape that you
6 just played?

7 A May have been, yes.

8 Q Sheriff Palmer, Tom Creech has been in your
9 custody from November -- early November of 1974 until he was
10 transferred here to Shoshone County in August of this year;
11 is that correct?

12 A Yes, it is.

13 Q During that period of time have you seen, personally,
14 Tom spaced out as that term is used regarding the use of
15 types of drugs?

16 A Can I explain that?

17 Q Yes.

18 A In a doctor's office I've seen him under the
19 influence of drugs.

20 Q And that was --

21 A If that's spaced out, yes.

22 Q Fine. And that was Sodium Ametol sessions --

23 MR. THOMAS: Objection, Your Honor, I think that is
24 immaterial, irrelevant and inadmissible.

25 THE COURT: Overruled.

1 THE WITNESS: Yes.

2 Q BY MR. ROBINSON: While in the cell, not
3 connected, however, were those sessions with Dr. Heyrend,
4 have you had it reported by your deputies that Tom was spaced
5 out from use of drugs?

6 A I've had it reported to me, however, I do not
7 believe he was. I thought it was faked.

8 Q All right. And personally during this period of
9 time that you had Tom in your custody, have you ever seen Tom
10 freaked out professing the -- that Satan had him?

11 MR. THOMAS: Objection, Your Honor, that is beyond the
12 scope of the material that the Court has already indicated
13 should be submitted or presented to the jury.

14 THE COURT: Overruled.

15 THE WITNESS: I would probably answer that the same way.
16 I think it was faked, but I have seen him that way.

17 Q BY MR. ROBINSON: And have your deputies reported
18 several of these occurrences that you personally did not see
19 yourself?

20 A Yes.

21 Q During that period of time, from November of 1974
22 until August of 1975, do you have any estimate as to the
23 number of times?

24 A This would be an estimate only. I would guess
25 10, 12 times, maybe.

1 Q All right. During the period of time that
2 Tom Creech was in your custody were there several occasions
3 where he assisted and aided in preventing another prisoner from
4 either a suicide attempt or aiding and assisting those that got
5 themselves into trouble physically in the cells that he was
6 kept?

7 A A number of times?

8 Q Yes, sir.

9 A I don't know how many times, maybe two or three;
10 something like this that I recall right off the top of my
11 head.

12 Q All right. And did you feel that those were
13 genuine circumstances that had occurred?

14 A No, I thought one of them was another escape
15 attempt that he had cooked up with this other individual.

16 Q Um-hmm.

17 A As a matter of fact, I think Mr. Creech told me
18 that later on. I'm trying to remember the occasions and I
19 can't remember them exactly as they happened.

20 There was incidents when he did help the other
21 prisoners, though. There was incidents when he had fights in
22 the cell. If I'm vague, I'm not purposely being so. If you
23 would like me to expand on that, I will.

24 Q Well, I believe we'll go into it later, Sheriff.

25 MR. ROBINSON: Your Honor, at this time I would have no

1 further questions going beyond direct and would want to reserve
2 calling Sheriff Palmer back in the defense's case.

3 THE COURT: Any redirect?

4 MR. THOMAS: Yes, Your Honor.

5
6 REDIRECT EXAMINATION

7 BY MR. THOMAS:

8 Q You've referred to escape attempts,
9 Sheriff Palmer. Would you -- characterizing Mr. Creech's
10 having attempted to escape?

11 A Yes.

12 Q Would you state the circumstances of that, please?

13 A On one occasion he broke a mirror, or a safety
14 glass in his cell and took a portion of that glass and cut his
15 wrists. These were superficial lacerations, I was called in
16 to inspect him and look them over. I didn't think that they
17 were serious enough to go to the hospital so I denied that.

18 We taped him up and later on Mr. Creech told me
19 that that was an escape attempt. Had we have taken him to the
20 hospital he had outside help there that would have killed me
21 if they needed to to get him away.

22 Q Is that what he told you?

23 A Yes.

24 Q Was there any corroboration or verification that
25 there was any outside help?

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A. Yes.

Q What was that?

A. Some of the people that he knew were observed in our area.

Q Were there other attempts to escape?

A. Yes, there was some saw blades smuggled into the jail proper. However, I felt that this was a feeble attempt. We got them back before he had actually done much. He sawed on the bars a little bit. We did get that back before there was much headway made.

Q Now, going back to the airplane incident, if I may. You discussed with Mr. Robinson a moment ago the fact that Mr. Creech had handed you your gun back. Was it physically possible, or likely at that time, that Mr. Creech could have escaped while in possession of your loaded gun had he desired to do so?

A. I don't believe he could have escaped at that time, no.

Q Why is that?

A. There were other law enforcement officers in the aircraft with me when he handed me the gun. It was in this manner (indicating) he had the grip like this (indicating) but Mr. Mason observed him pick the gun off of the floor. He had reached for his weapon. I was, probably, a foot or so from him with my back to him getting out of the airplane. When he

1 called my attention, "Here, Sheriff, here's your gun, you lost
2 your gun." I think that we were in one tight spot, I don't
3 think that -- we all needed each other's help at that point.
4 Could he have escaped? No, I don't think so. There was two
5 other trained police officers in that aircraft and he may have
6 killed me, he may have killed one of the others but I don't
7 think he would have had time to have killed all of us. He
8 wouldn't have made it.

9 Q Was Mr. Creech aware, to your knowledge, that the
10 other officers were armed?

11 A Yes.

12 Q Now, you referred a few moments ago to the fact
13 that you thought Creech was faking when indicated that he was
14 "spaced out" as Mr. Robinson put it. What do you mean by that?
15 Would you explain that a little more fully?

16 A When I talked with him, observed him freaked out,
17 spaced out, I could communicate with him. On one occasion he
18 was talking with -- or he was not talking, he was laid out
19 hyperventilating, breathing very heavily and so forth in a
20 semiconscious stupor. I observed this and I talked to him. I
21 told him "You straighten up and sit down and talk to me" in a
22 rather gruff tone. He did set up. We talked.

23 Later on he told me that he had faked them. Some
24 of the trouble that he had given me was his fault.

25 Q Have you ever seen any other incidents in which

1 Mr. Creech appeared to be faking illness or being under the
2 influence of drugs?

3 A. Yes.

4 Q. Would you describe those, please.

5 A. Another occasion, Idaho State Penitentiary, he had
6 the guards, everybody, working over him very feverishly. I
7 arrived at the scene and the same thing happened, told him to
8 sit up and talk to me. He did.

9 We took him to the hospital and had him checked
10 over. There was nothing wrong with him. Doctors said "Take
11 him back".

12 Q. There was also some reference made during
13 Mr. Robinson's cross-examination, Sheriff Palmer, that
14 Mr. Creech was known to have assisted other prisoners. Was
15 there any time when he showed any violence to other prisoners
16 in your jail?

17 A. Yes, there was.

18 Q. Describe those incidents, please.

19 A. On one occasion the jail personnel put a person in
20 the cell with Mr. Creech who was charged with rape. Mr. Creech
21 became very violent and attempted to kill him. He was pulled
22 off, taken out of the cell. To quote Mr. Creech, "If you'd
23 have let me have the son of a bitch I'd have killed him if you
24 just gave me a little time."

25 Q. Who said that?

1 A. Mr. Creech.
2 Q. Say that to you personally?
3 A. Yes, he did.
4 Q. Are there any other incidents of that character?
5 A. There was quite a few incidents that I can't
6 recall all of them, have problems within the jail.
7 Q. Do you recall the general nature of those incidents?
8 A. Well, one time he said that he slipped in some
9 coffee and fell and hurt himself. I believed his arm was
10 swelled up at that time and there was visual wounds. I think
11 some of these were self-inflicted. In fact, he told me they
12 were. I can't remember all of them.
13 Q. Was Mr. Creech a popular prisoner as far as you
14 know?
15 A. He seemed to get along all right with the other
16 prisoners. Some of them he did and some of them he didn't,
17 very, apparently.
18 Q. Did he have the ability, from your observations,
19 to get along when he wanted to with prisoners in the jail?
20 A. Yes, very much.
21 Q. Sheriff Palmer, I'm handing you State's Exhibits
22 61 and 62.
23 Mr. Robinson referred to a letter in his
24 cross-examination that you had received from Mr. Creech. Is
25 that the letter that you are referring to in answering

1 Mr. Robinson's questions?

2 A. Yes, it is.

3 Q. Under what circumstances did you receive that
4 letter?

5 A. Like I explained previously, the interview with
6 Mr. Creech, Mr. Robinson, some other detectives, a day or so
7 after June the 9th. I can't recall whether Mr. Creech handed
8 me this letter personally or whether it was given to
9 Lieutenant Segal, who is in charge of our jail operation, and
10 he gave it to me. But, at any rate, I did receive this letter
11 from him.

12 MR. THOMAS: Your Honor, I'm not sure, but it seems to
13 me this letter was admitted for limited purposes previously.
14 I move to admit it for general purposes at this time; along
15 with Exhibit 62, which is the envelope.

16 MR. ROBINSON: May I examine it just a bit more,
17 Your Honor?

18 THE COURT: Yes.

19 MR. ROBINSON: Our objection would go, Your Honor, as
20 stated to the Court in the hearing regarding this matter. We
21 would reassert that objection, anticipating the Court's ruling.

22 THE COURT: It's overruled. Sixty-one and 62 will be
23 admitted.

24 (State's Exhibits No. 61 and 62 admitted into
25 evidence.)

1 MR. THOMAS: May the State read the letter into the
2 record, Your Honor?

3 THE COURT: Yes.

4 MR. THOMAS: The letter bears a rubber stamped indication
5 which says "Received Sheriff's Office June 9, 1975 4:30 p.m.
6 Ada County, Idaho."

7 It also bears a notation that it was received at
8 4:30 p.m. 6-9-75, signed "E.C. Palmer, I.E. Thomas."

9 The letter reads "Sheriff Palmer: Sir, I'm writing
10 this letter in regards to the following.

11 "To Whom it MIGHT Concern:

12 "I Thomas E. Creech make this statement free and
13 voluntarily and of my own free will. Without any threat or
14 promise of any nature. All 'statements' that I Thomas E. Creech
15 have made to the following people, was made without threat or
16 promise and of my own free will. This relates to any and all
17 statements I have made in the past, 'with and without' defense
18 counsel present. E.C. Palmer, Sheriff, Ada County, Bud Mason,
19 Investigator, State of Idaho, and Dr. Heyrend - Doctor and psych.
20 Respectfully, Your Friend, Tom Creech."

21 Q BY MR. THOMAS: Did you ever have any indication
22 of -- from Mr. Creech, Sheriff Palmer, that he had deliberately
23 disregarded his counsel's instructions in giving you any
24 statements of any kind?

25 A. Yes.

1 Q What indications were those?
2 A He sent me a tape recording and that letter after we
3 had -- after his counsel told him not to.
4 Q Give you any indication on the tape or in any other
5 way that he knew that his counsel didn't want him to send that?
6 A Yes.
7 Q Did he indicate to you in any way that he believed
8 that his counsel would disapprove if his counsel knew that he
9 was sending this statement?
10 A Yes, he did.
11 Q And was it that his counsel would disapprove?
12 A Yes. He said that his counsel would shit a blue
13 streak if he knew he was sending that to me.
14 Q Did that refer to the tape that we've just heard
15 an edited portion of?
16 A Yes.
17 MR. THOMAS: No further questions, Your Honor.
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1 RECROSS EXAMINATION

2 BY MR. ROBINSON:

3 Q Sheriff Palmer, during this entire period that you
4 had custody of Tom, and the many conversations that you had with
5 him, did Tom lie to you on many, many occasions?

6 A Yes, he did.

7 Q Did you find it very difficult to determine what
8 was, in fact, true and what was false?

9 A Yes.

10 Q Do you still have that problem?

11 A Yes.

12 Q Now, on the circumstance you describe of Tom telling
13 you that if you would have left me with that man I'd have
14 killed him, that involved a man of approximately 30 years of age
15 and his wife out of Minidoka County charged with a statutory
16 rape of a 13 year old niece --

17 MR. THOMAS: Object to the question, assumes facts not
18 in evidence.

19 Q BY MR. ROBINSON: -- isn't that correct?

20 THE COURT: Overruled. This was opened up on your direct
21 examination and he's entitled to explore it.

22 THE WITNESS: Yes.

23 Q BY MR. ROBINSON: And to complete that, you were
24 advised that that particular person had bragged in the cell
25 about how good that young girl was and that's when Tom came

1 unglued; isn't that correct?

2 A. Yes.

3 MR. ROBINSON: Nothing further.

4
5 FURTHER REDIRECT EXAMINATION

6 BY MR. THOMAS:

7 Q What do you mean when you say "Tom came unglued",
8 Sheriff?

9 A I think that Counsel was referring to that he became
10 violent and mad and took it upon himself to attempt to kill that
11 fellow.

12 Q Did he ever, to your knowledge, become "unglued"
13 on any other occasion when there wasn't a statutory rapist
14 present?

15 A I'm sure he has.

16 Q Would you use that word to characterize any of the
17 circumstances which you referred to previously involving fights
18 with other prisoners, or involving the faking of illnesses?

19 A I don't think he was faking when he was beating on
20 that fellow. He was pretty badly beat up. I think his intent
21 was there to, probably, do what he could to stop that fellow --
22 or inflict great bodily harm to him.

23 MR. THOMAS: Thank you, Sheriff. No questions.

24 MR. ROBINSON: And with that provision, Your Honor, that
25 I do desire to recall Sheriff Palmer, I have no further

1 questions.

2 THE COURT: Step down. You will have to remain available
3 when defense counsel needs you.

4 Probably have to make arrangements with him about
5 the timing when you will be needed.

6 THE WITNESS: Okay, Judge.

7 MR. THOMAS: State calls Mr. Mason.

8 THE COURT: I think he was sworn outside the presence of
9 the jury, so I'll ask you to be sworn again.

10
11 ALVIN R. MASON,
12 a witness produced on behalf of the State, having been first
13 duly sworn, took the stand and testified as follows:

14
15 DIRECT EXAMINATION

16 BY MR. THOMAS:

17 Q Mr. Mason, would you state your name and address,
18 please.

19 A Alvin R. Mason, I'm also known as Bud Mason.

20 Q And where are you employed, sir?

21 A Bureau Chief of Narcotics for the State of Idaho.

22 Q And you reside where, Mr. Mason?

23 A In Boise, Idaho.

24 Q What was your position on November 5, 1974; if you
25 would?

1 A. I was an Investigator for the Department of Law
2 Enforcement, State of Idaho.

3 Q. And did you become involved, at or around that
4 time, in the investigation of the crimes with which the defendant
5 is charged in this case?

6 A. Yes, I believe it was November 5, 1974.

7 Q. And how did you become involved in those
8 circumstances?

9 A. I was assigned to assist the Sheriff of Valley
10 County with possible double homicide in the Donnelly area.

11 Q. Who assigned you to do that?

12 A. My Bureau Chief.

13 Q. And did you, in fact, go to the Donnelly area and
14 begin your investigation?

15 A. I went to the Sheriff's office in Cascade and
16 conducted my portion of that investigation in the Cascade area.

17 Q. And on what date did you do that, Mr. Mason?

18 A. November the 5th, 1974.

19 Q. And would you describe for the jury what you did
20 at that time?

21 A. Contacted the Sheriff, Sheriff Lynskey, some other
22 investigating officers in the area. We attempted to contact
23 any witness or witnesses, take statements as to whether they had
24 seen anything in the Donnelly area, anything unusual regarding a
25 blue and white Buick and -- or anything that would be unusual in

1 the Donnelly area.

2 Q Did you visit the scene of the homicide while the
3 bodies of the victims were still there at any time?

4 A No, I did not.

5 Q When did you first come into contact with the victims?

6 A Was at the morgue of the St. Alphonsus Hospital in
7 Boise.

8 Q Had you seen them before that time in Cascade or
9 Donnelly?

10 A They were in the -- I believe the Coroner's hearse
11 being transported to Boise.

12 Q Mr. Mason, I have some Exhibits here that I'd like
13 to show you. This is State's Exhibit 1-G. Can you tell me
14 whether you can recognize the body in that photograph?

15 A This appears to be the man identified as
16 Arnold that I first observed in the St. Alphonsus Hospital.

17 Q And State's Exhibit 1-A. Would you identify that?

18 A At the time I first observed this deceased person
19 his name was unknown. He was later identified as Bradford. I
20 saw him in St. Alphonsus Hospital also.

21 Q When did you first become aware of the identification
22 of these two victims?

23 A I believe Mr. Arnold was identified on the 6th day
24 of November, 1974 and it was some days later before Mr. Bradford
25 was positively identified.

1 Q Do you happen to recall about when it was when
2 Mr. Bradford was positively identified?

3 A I believe it was the following week.

4 Q What was the process involved in identifying him?

5 A Well, I fingerprinted the two people and checked the
6 fingerprints with the CID files. In that process Mr. Arnold's
7 fingerprints were on file. Comparing the fingerprints
8 Mr. Arnold was identified positively, sent a teletype to the
9 FBI in Washington and also to the CID in Alabama for the
10 possibility of identifying Mr. Bradford.

11 It was the following week that we got our teletype
12 back from Alabama identifying Mr. Bradford.

13 Q Did you participate in other phases of the
14 investigation of these two deaths?

15 A Yes, I did.

16 Q What came next?

17 A On the 6th of November, I visually viewed the
18 car, checked the contents of the interior and also the trunk,
19 the outside. I then proceeded to Boise and assisted
20 Dr. Scott with the autopsy of one of the victims.

21 Q Do you remember what day it was that you assisted
22 Dr. Scott?

23 A It was November the 6th and 7th.

24 Q Did you assist in both autopsies?

25 A Yes, I did.

1 Q In what manner?

2 A On the 6th day of November I believe Sheriff Lynskey
3 was present in a morgue, Valley County Coroner Walker and myself
4 and Dr. Scott. We had to undress one of the victims. While
5 the doctor was performing the autopsy we were observing and
6 taking notes as to the dress and also observed the doctor
7 extract the slugs from the body.

8 Q Now, you refer to the "undressing" of one of the
9 victims on November 6. What role did you play in that, if
10 anything?

11 A I assisted the doctor in taking the clothes off.

12 Q How did you assist him?

13 A I took the clothes off the deceased person.

14 Q What did you do with the clothes?

15 A I kept them in my custody, took them up to my offic
16 They had to be air-dried because they were still wet from the
17 blood. So, I laid them out on the carpet on a piece of paper
18 and air-dried them so that they could be shipped to the FBI
19 Laboratory.

20 Q Was that process followed with respect to both
21 victims?

22 A The autopsy on Mr. Arnold was conducted on
23 November the 7th, 1974. His clothes had to be cut off. The
24 were quite blood soaked, part of the clothing was stuck to
25 body.

1 I did the same thing in that situation, air-dried
2 the clothes and later they were shipped to the FBI Laboratory.

3 Q What other functions did you perform in assisting
4 Dr. Scott with the autopsy?

5 A I fingerprinted both the "deceases". I believe I
6 wrote down the description of each of the victims, wrote onto
7 the bottles that contained the slugs.

8 Q Mr. Mason, I'm handing you now State's Exhibits 10,
9 11, 12 and 13. Would you have a look at those and tell the jury
10 if you have seen them before.

11 A State's Exhibit 10 is a glass bottle, plastic top.
12 Has my writing on it, "11-7-74" has a word "Arnold" on the left
13 side -- front left side of here, has my initials. Dr. Scott
14 extracted that piece of lead from Mr. Arnold. I put it in the
15 bottle and sealed it; later sent to the FBI Laboratory.

16 State's Exhibit 11 is a glass bottle containing a
17 piece of lead projectile. It's a metal top, I wrote on the
18 outside of the bottle, "found in brain" later put a piece of tape
19 over the cap of the bottle, "found in brain, unidentified victim"
20 also has Deputy Maxwell's initials on it. That was placed in the
21 bottle in my presence by Sheriff Lynskey.

22 Q Let me just ask you to clarify one thing. You
23 referred to the "unidentified victim". Which one is that as
24 you've referred to them?

25 A It was later identified as Mr. Bradford.

1 Q Go on if you would.

2 A State's Exhibit 12 is a glass bottle with a lead
3 projectile. I wrote on the outside of the bottle, "right nostril,
4 found in inner ear, left" and the same thing on a piece of tape
5 that I put on later. Sheriff Lynskey again put the projectile
6 in the container in my presence.

7 State's Exhibit 13 is a glass bottle. I wrote on
8 the outside "found in right chin" also on the tape; which was
9 extracted from Mr. Bradford by Dr. Scott, and placed in that
10 container my Sheriff Lynskey in my presence.

11 Q What did you do in respect to this investigation
12 after you had continued, or completed your process of assisting
13 with the autopsy?

14 A In respect to the evidence?

15 Q No. I want to go on now to another subject. What
16 was your next investigative step? Did you go to Mountain Home
17 on November 28th?

18 MR. ROBINSON: Objection, leading and suggestive,
19 Your Honor.

20 THE COURT: Oh, it's preliminary. Overruled.

21 THE WITNESS: Yes, I went to Mountain Home on the 9th
22 day of November, 1974.

23 Q BY MR. THOMAS: And what was the purpose of your
24 going down there?

25 A I received a call from Investigator Woodall who

1 asked me to come down and assist. They had two people in
2 custody in Mountain Home they were wanting to transport to
3 Cascade. I contacted Deputy Maxwell and Investigator Woodall
4 in Cascade -- or, I'm sorry, in Mountain Home.

5 Q What did you do then?

6 A Carol Spaulding was arraigned in the Courthouse --
7 MR. ROBINSON: Objection, lack of responsiveness to the
8 question and ask that it be stricken.

9 THE COURT: Yes, I'll sustain the objection and
10 instruct you to disregard the answer.

11 Q BY MR. THOMAS: What did you observe then and what
12 were your processes?

13 A I observed Carol Spaulding.

14 Q Under what circumstances?

15 A She was in the Elmore County Jail.

16 Q Did you come in contact with the defendant at that
17 time, or at any time while you were there on that occasion?

18 A Sometime later, on her way to -- our way to
19 Cascade Deputy Maxwell, Investigator Woodall, Carol Spaulding
20 and myself went to the Police Department in Mountain Home where
21 Mr. Creech was. He was brought out from the Police Department,
22 placed in the patrol car. We then proceeded to Cascade.

23 Q Were you present in the same car with the defendant
24 on the trip to Cascade?

25 A I was setting in the back seat with him.

1 Q And who else was in the car?

2 A Deputy Maxwell, Carol Spaulding, Investigator

3 Woodall.

4 Q Would you describe where each person in the car was

5 sitting, please.

6 A Deputy Woodall was driving the patrol car,

7 Carol Spaulding was sitting in the front seat beside the

8 Investigator Woodall, Deputy Maxwell was setting on the

9 passenger side, rear seat; Thomas Creech was sitting in the

10 center of the back seat and I was setting directly behind the

11 driver.

12 Q Were there any conversations with you or which you

13 overheard in which Mr. Creech made any reference to this case

14 or facts relating to this case?

15 A Yes.

16 Q What were those? Would you describe them, please?

17 THE COURT: Just a minute. I'd like to see Counsel at

18 the bench a minute.

19 (Unreported conversation between Court and Counsel.)

20 THE COURT: I'll simply state for the record, it's my

21 understanding on a representation of Counsel that the testimony

22 sought to be elicited at this time is something we've already

23 considered in a prior hearing as far as admissibility.

24 MR. ROBINSON: That's my understanding, yes, Your Honor.

25 THE COURT: If it goes beyond that, why, you'll have to

1 stop, Mr. Thomas.

2 MR. THOMAS: Thank you, Your Honor.

3 Q BY MR. THOMAS: Mr. Mason, did Mr. Creech, on the
4 trip to Cascade, make any reference to a place where an
5 automobile had been previously parked?

6 MR. ROBINSON: Objection to leading and suggestive,
7 Your Honor.

8 THE COURT: Sustained.

9 Q BY MR. THOMAS: Well, let me just ask you to go
10 through any conversation that Mr. Creech had with reference
11 to the facts.

12 A Facts of this case, Counselor?

13 Q Yes.

14 A I told Tom --

15 Q I just want Mr. Creech's conversation, unless this
16 is necessary to explain what he said.

17 A I asked him what happened at Donnelly and --

18 MR. ROBINSON: Objection here, Your Honor. No -- could
19 we have a short recess? I'm sure we could straighten this
20 matter up.

21 THE COURT: Yes, we'll take a short recess. I'll
22 instruct you to disregard -- I mean to observe the admonition
23 of the Court previously, ladies and gentlemen, and don't
24 discuss the case and keep your minds open.

25 The Bailiff will advise you when we're ready.

1 (Jury left the courtroom.)

2 THE COURT: Well, if you are going to go into
3 interrogation, the previous testimony given by Officer Maxwell
4 that I felt this was going to be just a repetition of, was
5 simply purported to be a spontaneous statement by Mr. Creech on
6 the way back to Cascade without any interrogation or
7 questioning. If you are going to have some interrogation here,
8 I'm going to require a hearing on foundation as to voluntariness
9 at this point.

10 MR. THOMAS: Well, may I ask Mr. Mason a couple of
11 questions, Your Honor?

12 THE COURT: Yes.

13
14 VOIR DIRE EXAMINATION

15 BY MR. THOMAS:

16 Q Mr. Mason, did you conduct any interrogation of
17 Mr. Creech in the automobile trip to Cascade?

18 A Yes.

19 Q What was that related to?

20 A I asked him what happened in Donnelly.

21 Q What did he say?

22 A He said those guys threatened him with a knife.

23 Q Under what circumstances did he make that comment?
24 Was that at the end of any conversation of any length?

25 A Said he shot them.

1 Q What did you ask him when he said -- in order to
2 get him to say that he shot them?

3 A I asked him if he did shoot them.

4 Q Was anything said about the place where an
5 automobile had been parked?

6 A Yes. I don't recall what the marker was, but as
7 we passed an area along the river he said "That's where we
8 parked the car -- " or "That's where we left the car".

9 MR. THOMAS: Your Honor, I'm not -- the only question
10 I'm going to go into is the question about the car and I'm not
11 going to ask Mr. Mason to go into anything relating to the
12 other questions or other interrogation. We don't want to
13 offer that at this time since we think we already have evidence
14 in relating to the same hearing.

15 MR. ROBINSON: That was my understanding, Your Honor,
16 that all of his testimony was going to amount to was the
17 vehicle at mile post 94 comment.

18 THE COURT: Well, to just limit the testimony to that
19 area, would you object to Mr. Thomas asking just a leading
20 question whether there was any comment made by location or
21 something to that effect?

22 MR. ROBINSON: No, Your Honor.

23 Before we bring the jury in, could we have five
24 minutes?

25 THE COURT: We'll take another five minutes.

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(Recess taken.)

THE COURT: Show the jurors are all present.

MR. ROBINSON: Your Honor, before we commence and go ahead with the procedure, may I inquire of the Court about this Saturday? I inquire because of some advance plans that we would like to mention.

THE COURT: I plan on going Saturday unless the jurors object.

MR. ROBINSON: Thank you very much, sir.

DIRECT EXAMINATION (Continued)

BY MR. THOMAS:

Q Mr. Mason, in regard to the automobile trip that you were describing a short while ago, did Mr. Creech make any comment to you about a place where an automobile had been parked during the trip?

A Yes. While we were enroute from Mountain Home to Cascade he said "That's where we left the automobile. That's where we left the car."

Q And where was he pointing to? Did you notice that?

A It was out to the right side, be on the river side of the highway, Highway 55.

Q And do you know the approximate location?

A About 17 miles south of Cascade in a canyon. The river parallels the road in that area, pine trees and canyons.

1 Q Now, calling your attention to the date of
2 May 4, 1975, were you, on that day, traveling in an aircraft
3 with the defendant?

4 A Yes, I was.

5 Q Who else was in the plane?

6 A Myself, Thomas Creech, Sheriff Palmer, Tom Taylor,
7 Deputy Sheriff from Ada County, and the pilot, Tom Ambrose.

8 Q And did anything unusual occur as far as the plane
9 was concerned?

10 A Plane crashed.

11 Q Would you describe the circumstances which
12 caused the plane to go down?

13 A Tom Taylor was sitting in the back seat and he had
14 asked me for the oxygen, traveling at about 14,000 feet. He
15 was unable to breathe. I handed him the oxygen, plugged it in
16 for him and a minute or so later I turned around to check on
17 him and his lips were blue, his ears were blue, his eyes were
18 closed. He appeared as though he couldn't get his breath.

19 At that time I unbuckled my seat belt and turned
20 around in my seat, tried to administer artificial respiration --
21 or I at least tried to get him to take the oxygen. He just
22 wasn't responding.

23 He stiffened out as though he was in some sort of
24 a seizure. I reported this to the pilot and Sheriff Palmer.
25 At that time we descended to a lower altitude, broke out of the

1 clouds about -- seemed to be 300 or 400 feet off the ground,
2 right over a road. We thought possibly he would, by getting to
3 a lower altitude, that Tom Taylor would be able to breathe.
4 He just simply wasn't -- seemed to go limp and it -- we
5 decided that we should land and try to assist him in any way
6 we could.

7 The cabin of the plane is rather small and I just
8 simply couldn't get to him. We decided to set down on the road.
9 It was black marked road and didn't have any snow on top of it.
10 I thought it was a pretty good landing, but the wind blew us
11 off the road. We hit a culvert, folded the landing gear up
12 and at that time the nose gear folded underneath the aircraft.
13 We went through a lot of water and mud, mud splattered all
14 over the windshield and both sides of the cabin. So, at that
15 time, you couldn't see out of it. Steam and fumes came inside
16 the cabin. The plane was at a -- down on its nose about a
17 30 degree angle and tail up in the air, the right wing finally
18 went down into the ground.

19 We turned around to the left, the plane stopped
20 and then the tail went back down. The plane rested there.

21 Q Were you able to observe Mr. Creech's responses
22 and his behavior during these events?

23 A. Tom Creech was setting by me. I was still turned
24 around trying to hang onto Tom Taylor. It happened in just a
25 few seconds and I didn't notice any, really didn't notice

1 Tom Creech at all.

2 Q At any time after this plane had crashed in the
3 manner you described, did you have a conversation with the
4 defendant?

5 A After we had all got out of the aircraft and were
6 able to walk around on our own, Tom Creech and myself and I
7 believe Tom Taylor were in the airplane. Of course, we were
8 chatting back and forth, we were concerned about our welfare.
9 At that time I think each man was dependent upon each other for
10 survival. It was cold, snowing. Tom Creech made the
11 statement, "Well, this sure made a Christian out of me." Later
12 stated "I didn't have any reason for killing those guys, the
13 jury should find me guilty."

14 Q Did he make any reference to what guys he was
15 talking to, or did you get any impression?

16 A Being an Idaho officer I felt that he was referring
17 to the two fellows in Donnelly.

18 Q Was there any other reason why you thought that?

19 A I didn't -- wasn't aware of any other scheduled
20 jury trial involving two homicides.

21 MR. THOMAS: At this point, Your Honor, the State moves
22 that the Court take judicial notice of the fact that the trial
23 of -- was earlier scheduled to start in Cascade on the 20th of
24 May was the only jury trial then pending against the defendant.

25 THE COURT: Well, I'll take judicial notice the files

1 of this court reflect that the case of State of Idaho versus
2 Thomas Eugene Creech; which we are now trying, was at that
3 time -- or was, on January 8, 1975, scheduled for trial, a
4 jury trial to commence on May 20, 1975.

5 MR. THOMAS: Thank you, Your Honor.

6 Q BY MR. THOMAS: Going back to the statement that
7 Mr. Creech made. About how long after the airplane crash did
8 that comment from him come?

9 A It was more than a half hour but less than an hour.

10 Q What was Mr. Creech's demeanor at the time this
11 conversation was going on?

12 A About like he is right now.

13 Q Was there anything unusual about his manner of
14 speaking?

15 A I couldn't detect any unusual manner of --

16 Q Was there -- did you have any reason to believe
17 that he was not rational and coherent?

18 A He was at that time.

19 Q He was rational and coherent?

20 A At that time he was.

21 Q Did the comments he made come in response to any
22 questioning by you as to the killings of Arnold and Bradford?

23 A No, I didn't ask or question him at all. This was
24 a voluntary --

25 Q Who brought up the subject?

1 A. It was a spontaneous statement made by him.

2 Q. By the defendant, Thomas Creech?

3 A. Yes.

4 MR. THOMAS: No further questions at this time,
5 Your Honor.

6 MR. ROBINSON: If I may proceed, Your Honor?

7 THE COURT: Yes.

8

9 CROSS EXAMINATION

10 BY MR. ROBINSON:

11 Q. Mr. Mason, did this spontaneous comment by
12 Tom Creech come before or after he recovered the Sheriff's
13 .38 revolver?

14 A. Before.

15 Q. Okay. Now, you say that comment was "This made a
16 Christian out of me, I didn't need to kill those fellows, the
17 jury should find me guilty". Is that, in essence, the comment
18 that was made?

19 A. In essence, yes, said "I didn't have any reason".

20 Q. All right. And this was not in response to any
21 question that you had posed to Tom about any investigation
22 that you were making?

23 A. No, it was not.

24 Q. All right. And I believe that you said that you
25 just assumed that he was making some reference to Idaho

1 circumstances?

2 A. I assumed that he was referring to the Donnelly
3 case.

4 Q All right. But, I believe your testimony now has
5 gone further; that this also couched itself in the fact that
6 there was then a pending trial scheduled in Cascade. Now,
7 that thought came to you as a result of a hearing here
8 yesterday; did it not?

9 A No, I believe I said I wasn't aware of any other
10 jury trial scheduled in Idaho at that time.

11 Q That's what you've testified here today, that
12 wasn't part of your qualifying testimony in regard to this
13 statement yesterday. That thought came to you from this
14 Court; did it not?

15 A No, I wasn't aware of any other jury trial at that
16 time.

17 Q I know, but the first time you inserted that as
18 part of your thought process was today. You didn't testify
19 that that was part of your thought process in making the
20 assumption that this was regarding Arnold and Bradford
21 yesterday; isn't that correct?

22 A I would say so.

23 Q When this occurrence took place that Tom Creech
24 recovered the Sheriff's .38 revolver and handed it, between
25 thumb and forefinger gingerly to the Sheriff, in your

1 estimation was it physically possible for Tom Creech to have
2 wasted all officers there?

3 A. I think it would have been physically possible,
4 but not probable.

5 Q. He didn't offer to, did he?

6 A. No, he didn't.

7 Q. All right. Now, Mr. Mason, in going through your
8 attempt to identify the victims Arnold and Bradford, I believe
9 your testimony was that you fingerprinted the subjects and
10 sent that subject matter to the FBI in Washington, D.C.; is
11 that correct?

12 A. That's correct.

13 Q. And did you receive verification and also
14 records, criminal records, of those two subjects in response
15 as part of your identification process?

16 A. Yes.

17 MR. ROBINSON: May I approach the witness, Your Honor?

18 THE COURT: Yes.

19 Q. BY MR. ROBINSON: "Mr. Palmer", handing you what
20 has been marked for identification as Defendant's Exhibits A
21 and B, I will ask you whether or not those two documents are
22 the rap sheets on John Wayne Bradford and Thomas Arnold?

23 A. The name is Mason and, yes, they are.

24 Q. I'm sorry. If I referred to you by the wrong name,
25 I didn't intend to.

1 Are those photocopies, Mr. Mason, of the rap sheets
2 that you received from the FBI on these two subjects?

3 A. I'm sorry, I didn't hear the first part of the
4 question.

5 Q. Let me restate it. Are those the documents
6 commonly referred to as "rap sheets" that you received from the
7 FBI on those two subjects, Arnold and Bradford, as part of your
8 process of positive identification?

9 A. They appear to be the same, yes.

10 MR. ROBINSON: All right. We'd ask, Your Honor, that
11 Defendant's Exhibits A and B be admitted.

12 MR. THOMAS: State objects, Your Honor, the victims'
13 background is purely irrelevant.

14 MR. ROBINSON: May we have argument to that outside --

15 THE COURT: I don't need any argument going on. He
16 objected on the ground it was irrelevant.

17 MR. ROBINSON: Oh. I would like to be heard in that
18 regard, Your Honor.

19 THE COURT: Well, I'm going to take the same position. I
20 did before on when you offered these, Mr. Robinson; that if
21 you would separate out the portions of these exhibits that
22 relate to identity to the two victims I would admit it. I
23 think there's -- much of this, though, that go beyond the
24 scope of direct examination and is improper cross and, as long
25 as they are all tied together in one Exhibit, I'm going to

1 sustain the objection; not on the ground of relevancy, but on
2 the ground that this goes beyond the scope of the direct
3 examination.

4 MR. ROBINSON: May I be heard in this regard,
5 Your Honor?

6 THE COURT: Yes. We'll take our noon recess at this
7 time, ladies and gentlemen. If you will remember the
8 admonition, don't discuss the case and keep your minds open
9 entirely on it. We'll be in recess on it until 1:30.

10 (Jury left the courtroom.)

11 MR. ROBINSON: Your Honor, I do agree with the
12 Court's appraisal in regards to Mr. Mason's testimony; that
13 this tends to go a distance beyond his direct examination.
14 But, I submit to the Court that there have been tape
15 recordings that have made reference to the fact that Tom Creech
16 made the statement these men really were trying to rape Carol.

17 Now, with this -- all of this in evidence and
18 before the jury, reference to that subject matter being made
19 in the voluntary statement, reference of that being made in
20 Officer Hill's report, that is admitted into evidence; that
21 now the personalities of both Arnold and Bradford are proper
22 subject of inquiry. They are material and relevant to this
23 jury so that this jury can determine whether or not there is
24 a basis of Arnold and Bradford's character; that they would,
25 or could, have made this attempted rape on Carol and, therefore,

1 their entire background is shown in Defendant's Exhibits A and
2 B are both material and relevant. It has properly been
3 identified as being part of the identification process and
4 received in this manner by Mr. Mason and I feel that I have
5 now laid the total basic foundation for the admission of these
6 documents, basically because all of the other matter in issue
7 and the jury has already been advised of the behavior pattern,
8 at least as part of the State's evidence in the tape
9 recordings and other documents.

10 THE COURT: Well, my response to that is simply that
11 I'm not sustaining the objection on the grounds that it's
12 irrelevant. I'm sustaining the objection on the ground it
13 goes beyond the scope of the direct examination.

14 So, whether it's relevant or not is a moot
15 question at this point. I appreciate it will become relevant,
16 probably, at some point in the trial, I mean, but it will
17 become an issue of relevancy will be before the Court properly
18 in a further trial. I would simply respond, even on that
19 point at this time, that I understand fully what you are
20 saying; that the character of the victims may be very relevant
21 if it's known to the defendant. I think to make it relevant
22 it has to be shown that that character was known to the
23 defendant at the time of the alleged act and that foundation
24 certainly hasn't been laid at this time.

25 I appreciate there's been some foundation that

1 Mr. Creech was concerned about their intent with respect to
2 Miss Spaulding but that wasn't based on Mr. Creech having read
3 the FBI report. It was based on something else.

4 To me, before this becomes relevant on that basis,
5 he would have to have been familiar with these facts and
6 certainly no foundation to that effect at this time.

7 MR. ROBINSON: Only one area that I can recall at one
8 document, Your Honor, I believe that he made reference to the
9 fact that Bradford had been incarcerated in the Alabama State
10 Penitentiary.

11 THE COURT: That's already in the record. I don't know
12 that that even shows up here.

13 MR. ROBINSON: It doesn't.

14 THE COURT: So, that doesn't help these documents.

15 MR. ROBINSON: But it's basically the belief from
16 statements that had been made.

17 THE COURT: But I don't see how this -- one, was it
18 Bradford had been in the --

19 MR. ROBINSON: Yes. I believe that reference to
20 Bradford and the Alabama State Prison for having killed a
21 black was in the voluntary statement, part of that which was
22 admitted.

23 THE COURT: But I don't see that kind of an entry on
24 this Exhibit.

25 MR. ROBINSON: It isn't?

1 THE COURT: Well, I don't see how that helps the
2 relevancy, then.
3 MR. ROBINSON: Only as to the general character of the
4 subjects themselves.
5 THE COURT: Well, I'm going to adhere to my ruling.
6 MR. ROBINSON: All right, sir.
7 THE COURT: You may step down.
8 (Noon recess taken.)
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1 WALLACE, IDAHO, WEDNESDAY, OCTOBER 15, 1975, 1:30 P.M.

2 (Jurors re-entered the courtroom.)

3
4 THE COURT: Show the jurors are all present.

5 MR. ROBINSON: No further questions, Your Honor.

6
7 REDIRECT EXAMINATION

8 BY MR. THOMAS:

9 Q Mr. Mason, in discussing with Mr. Robinson the
10 question of Mr. Creech obtaining Sheriff Palmer's gun at the
11 site of the plane crash I believe you said that you didn't think
12 it was probable that Mr. Creech could have wasted all four
13 people there. Would you explain what you mean by that?

14 A I first saw the gun in his hand down between the
15 seats of the plane. Of course, I also was armed. I think, due
16 to the seating arrangement within the plane, the possibility
17 existed but I seriously doubt if that could have been
18 accomplished. I'm assuming you mean killed by "wasted".

19 Q On the date of the plane crash did you, Mr. Mason,
20 know at that time that this case had been set for trial later
21 that month?

22 A Yes, I was aware of that.

23 MR. THOMAS: No further questions, Your Honor.

24 THE COURT: Nothing --

25 MR. ROBINSON: Nothing further, Your Honor. I do want

1 the same understanding of Mr. Mason that he can be called on the
2 defense's case.

3 THE COURT: All right. You will have to remain available
4 to testify later, then.

5 THE WITNESS: All right, Judge.

6 THE COURT: Call your next witness.

7 MR. REMAKLUS: Call Sheriff Lynskey.

8
9 DEROLD LYNSKEY,
10 a witness produced on behalf of the State, having been first
11 duly sworn, took the stand and testified as follows:

12
13 DIRECT EXAMINATION

14 BY MR. REMAKLUS:

15 Q State your name, please.

16 A Derold Lynskey.

17 Q Where do you live, Mr. Lynskey?

18 A Cascade, Idaho.

19 Q And what is your occupation, sir?

20 A Sheriff of Valley County, Idaho.

21 Q And were you Sheriff of Valley County, Idaho in --
22 on November 5, 1974?

23 A I was.

24 Q And, Sheriff, did you assign Deputy Maxwell as
25 investigator in the two homicides on that date that we're

1 dealing with today?

2 A. Yes, I did.

3 Q. Directing your attention to that day, specifically,
4 Sheriff, did you go to the death scene?

5 A. I did.

6 Q. And while you were there did you inspect the bodies
7 that have been testified to?

8 A. Yes, I did.

9 Q. And handing you what's been marked -- or admitted
10 into evidence as Plaintiff's Exhibit 1-A, can you identify who
11 is in that photograph?

12 A. This was later learned to be Mr. Bradford.

13 Q. And, Sheriff Lynskey, handing you Plaintiff's
14 Exhibit 1-G, would you look at it, please.

15 A. Yes, sir. This was Mr. Arnold.

16 Q. That is a photograph of Mr. Arnold?

17 Did you see both of these bodies at the death scene
18 on November 5th?

19 A. Yes, I did.

20 Q. Sheriff, were you present during the autopsy of
21 -- that Dr. Scott described here in the courtroom?

22 A. I was present for the unidentified person, learned
23 to be later as Mr. Bradford, on the 6th day of November.

24 Q. And which autopsy was performed first; do you know?

25 A. The subject learned to be Mr. Bradford.

1 Q And were both bodies down at the autopsy room at
2 St. Alphonsus Hospital on that date?
3 A Yes, they were.
4 Q Do you know of your own knowledge that these are the
5 two bodies that were autopsied by Dr. Scott as testified to?
6 A Yes, I do.
7 Q Sheriff, handing you State's Exhibits 11, 12 and 13,
8 would you look at number 11, please.
9 Are you familiar with that exhibit?
10 A Yes, I am.
11 Q What is it?
12 A It's a piece of metal. The glass container
13 containing a piece of metal, alleged to be one of the bullets.
14 It came from Mr. Bradford.
15 Q Were you there when the bullet was removed?
16 A Yes, I was.
17 Q It was removed from Mr. Bradford; wasn't it?
18 A It certainly was.
19 Q Did you help prepare that Exhibit?
20 A I stood by with Mr. Mason while he printed the
21 printing on the glass, capped it and assisted by putting the
22 tape over the top from the seal being broken.
23 Q And then what did you do with the Exhibit?
24 A The Exhibit was taken to my office by me, placed in
25 our safe for the purpose of packaging it, sending it to the FBI

1 Lab.

2 Q All right. Would you put the Exhibit back into the
3 envelope please.

4 Would you look at Exhibits 12 and 13, please,
5 Sheriff?

6 A Exhibit 12?

7 Q Yes. Would you explain what that is?

8 A It's a glass container, printed on the outside by
9 Mr. Mason in my presence, "right nostril, found in the inner ear
10 left".

11 Q And what does that refer to?

12 A The location as to where Dr. Scott removed the
13 bullet from.

14 Q And the bullet is in the bottle?

15 A The bullet is in the bottle.

16 Q And did you get it there at the autopsy there that
17 day?

18 A I did.

19 Q And what did you do with that; if anything?

20 A I took it to my office and placed it in the office
21 safe for packaging for purposes of sending it to the Federal
22 Bureau of Investigation for examination.

23 Q Now, Sheriff, would you put that back in the
24 envelope, please, and look at Exhibit 13 and see if you followed
25 the same procedure with that.

1 A. Yes, sir. This is a glass container containing a
2 bullet with a writing inscribed on the glass bottle by
3 Mr. Mason in my presence stating that it went in the right chin.

4 Q. And do you know which body that was removed from?

5 A. Yes, sir. From Mr. Bradford.

6 Q. And did you take that exhibit to Cascade then?

7 A. I took this one to Cascade, placed it in the safe
8 for the purpose of transmitting to the FBI Laboratory for
9 examination.

10 Q. Thank you. Would you replace it, please,
11 Sheriff.

12 A. (Witness complied.)

13 Q. And you were not present when the second body was
14 actually autopsied; were you?

15 A. No, sir, I was not.

16 MR. REMAKLUS: I have no further questions.

17 MR. ROBINSON: No questions, Your Honor.

18 THE COURT: You may step down.

19 MR. REMAKLUS: Thank you, Sheriff.

20 We would request a very short recess to prepare for
21 our next witness, Your Honor.

22 THE COURT: We'll take a short recess, ladies and
23 gentlemen. If you will remember the admonition, don't discuss
24 the case and keep your minds open.

25 (Recess taken.)

1 THE COURT: Counsel ready to proceed?
2 MR. REMAKLUS: State is ready, Your Honor.
3 THE COURT: Prepared to call your next witness?
4 MR. REMAKLUS: Yes, Your Honor.
5 THE COURT: Who is that going to be?
6 MR. REMAKLUS: Miss Spaulding, Your Honor.
7 THE COURT: The record in this case reflects that at
8 that point this witness has, through her attorney, declined to
9 answer questions touching upon -- concerning the transaction
10 on trial here in a previous proceeding in this court.
11 Since that time I have had filed -- there has been
12 filed in the court proceeding a request by the Prosecuting
13 Attorney, pursuant to Section 19-1115 to order the witness to
14 answer questions concerning this proceeding.
15 Have you seen a copy of this request for Order to
16 Answer, Mr. Boyd?
17 MR. BOYD: Yes, sir.
18 THE COURT: Mr. Robinson, have you seen one of these?
19 MR. ROBINSON: No, I haven't.
20 THE COURT: Do you have a copy?
21 MR. REMAKLUS: It's right there.
22 MR. ROBINSON: Yes, Your Honor, I have made myself
23 acquainted with the provisions of this request.
24 THE COURT: All right, pursuant to this request and
25 pursuant to Section 19-1115 I would order the defendant to show

1 cause, if any she has, to order the witness -- I should say
2 Carol Spaulding to show cause, if any she has, why the questions
3 propounded to her touching on this matter should not be
4 answered, or the evidence produced.

5 In view of our prior proceedings do you need any
6 additional time to respond to this Order to Show Cause,
7 Mr. Boyd?

8 MR. BOYD: No, Your Honor, we don't have any cause to
9 show so long as the examination is within the bounds of the
10 order.

11 THE COURT: Any response you want to make, Mr. Robinson,
12 at this time?

13 MR. ROBINSON: No, Your Honor.

14 THE COURT: All right, pursuant to the Statute, then, I
15 will find that there is nothing clearly contrary to public
16 interest in requiring the witness to answer and, so, I will
17 order, Miss Spaulding, order you to answer any questions that
18 may be propounded so long as they do not tend to incriminate
19 you in any other jurisdiction outside of Valley County; which is
20 the county involved in this proceeding.

21 My order does not extend to anything that might
22 incriminate her outside of that jurisdiction. I will advise
23 you, in -- under that statute, Miss Spaulding, that if you
24 comply, the statute provides that you shall not be prosecuted,
25 or subjected to penalty or forfeiture for or on account of any

1 fact or act concerning which, in accordance with the order, you
2 are required to answer or produce evidence. But, you may
3 nevertheless be prosecuted, or subjected to penalty or forfeiture
4 for any perjury, false swearing or contempt committed in
5 answering or failing to answer or in producing or failing to
6 produce evidence.

7 Do you understand, then, the effect of this order?

8 MISS SPAULDING: Yes, Your Honor.

9 MR. BOYD: I want to make sure I understand, Your Honor.
10 When you said "any fact or event arising out of", did I
11 understand you to say Valley County?

12 THE COURT: Yes.

13 MR. BOYD: And your order, which in effect grants
14 immunity, does not extend to, say, Lewiston, Idaho or Boise,
15 Idaho?

16 THE COURT: That's right.

17 MR. BOYD: All right, I understand.

18 THE COURT: In other words, if any questions are
19 propounded that would tend to incriminate her in other
20 jurisdictions, including Nez Perce County or Ada County that I
21 would entertain an objection on your part and refusal to answer.

22 MR. BOYD: As far as any facts that -- or events that
23 might be asked in Valley County it wouldn't be necessary for me
24 to interpose advice to my client?

25 THE COURT: No, that's right. Of course, the right to

1 refuse to answer in other jurisdictions would only apply to the
2 extent that the answers might tend to incriminate her.

3 MR. BOYD: I understand that.

4 THE COURT: Ready to bring the jury in, then?

5 MR. REMAKLUS: Yes, Your Honor.

6 MR. ROBINSON: Yes, Your Honor.

7 (Jurors re-entered the courtroom.)

8 THE COURT: Show the jurors are all present.

9 Call your next witness.

10 MR. REMAKLUS: The State would call Carol Spaulding.

11

12 CAROL MARIE SPAULDING,

13 produced as a witness on behalf of the State, being first duly
14 sworn, took the stand and testified as follows:

15

16 MR. REMAKLUS: Before Miss Spaulding takes the witness
17 stand, may I remove any Exhibits that may be in there?

18 THE COURT: Yes.

19

20

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25

1 DIRECT EXAMINATION

2 BY MR. REMAKLUS:

3 Q Will you state your name, please.

4 A Carol Marie Spaulding.

5 Q And what is your age, Miss Spaulding?

6 A Eighteen.

7 Q Miss Spaulding, I wish to direct your attention to
8 the 3rd day of November, 1974. Can you tell me whether or not
9 you were at Lewiston, Idaho on that date?

10 MR. BOYD: I'll advise my client not to answer that
11 question. Claim the privilege, Miss Spaulding, Refuse to
12 answer.

13 THE WITNESS: I refuse to answer.

14 Q BY MR. REMAKLUS: Fine.

15 Miss Spaulding, did you have occasion in the early
16 morning hours of November 4, 1974, to be near Donnelly in Valley
17 County, Idaho?

18 A I cannot be sure of the date.

19 Q Do you know where Cascade, Idaho is, now,
20 Miss Spaulding?

21 A Yes.

22 Q Now, on the day that I asked you about, would you
23 tell me whether or not you were at a place 15 or 16 miles north
24 of Cascade and near Donnelly, Idaho?

25 A I can't be sure of the date, if it was the same date.

1 Q But, you think you were in Valley County on the
2 early morning hours of that day?

3 MR. ROBINSON: Objection. He's leading and suggestive,
4 Your Honor. The question is asked and answered.

5 THE COURT: Sustained.

6 Q BY MR. REMAKLUS: When you were in Valley County,
7 Idaho, Miss Spaulding, please tell me whether or not you were
8 with anyone.

9 A Thomas Creech.

10 Q And is that the Thomas Creech who is seated here
11 at counsel table in the brown shirt?

12 A Yes.

13 MR. REMAKLUS: May the record show she indicated the
14 defendant, Your Honor?

15 THE COURT: Just for the record, so it will reflect that
16 you are referring to Mr. Creech, would you describe what
17 clothing he's wearing right now, Miss Spaulding.

18 THE WITNESS: He's wearing a brown shirt.

19 THE COURT: Yes, the record may show she's indicated the
20 defendant.

21 Q BY MR. REMAKLUS: When you were in Valley County,
22 Idaho on that occasion with Mr. Creech, was anyone else along?

23 A Arnold and Bradford.

24 Q Is that Tom Arnold and Wayne Bradford?

25 A I believe so.

1 Q And were you and Mr. Creech traveling with
2 Arnold and Bradford?

3 MR. BOYD: Refuse to answer.

4 THE WITNESS: I refuse to answer.

5 MR. BOYD: Unless we can establish the place.

6 Q BY MR. REMAKLUS: Were you traveling with
7 Tom Arnold and Wayne Bradford in Valley County, Idaho?

8 A Yes.

9 Q How were you traveling there?

10 A In a car.

11 Q Can you describe the car for me?

12 A No.

13 MR. REMAKLUS: May I approach the witness, Your Honor?

14 THE COURT: Yes.

15 Q BY MR. REMAKLUS: Handing you what is in evidence
16 as State's Exhibit 28-A, I'd ask you to look at that
17 photograph, Miss Spaulding.

18 A I believe that is the car.

19 Q You believe that to be the car?

20 Miss Spaulding, prior to getting into the vicinity
21 of Valley County, Idaho, did you stop before that at or near
22 McCall, Idaho?

23 MR. BOYD: Refuse to answer.

24 THE WITNESS: I refuse to answer.

25 MR. REMAKLUS: McCall in Valley County, Idaho.

1 THE WITNESS: I refuse to answer.

2 MR. BOYD: I don't think she understood the question.

3 Q BY MR. REMAKLUS: Did you have o-casion to stop in
4 McCall, Valley County, Idaho, before traveling on down to --
5 near Donnelly, Idaho?

6 A Yes.

7 Q Can you tell me where you stopped?

8 A At a motel by the lake.

9 Q And who all was there at that time with you, if
10 anyone?

11 A Thomas Creech, myself, Mr. Arnold and Mr. Bradford.

12 Q And were you traveling in that car that we just
13 took a look at, the picture of?

14 A Yes.

15 Q When you left McCall headed towards Donnelly, who
16 was driving that car?

17 A I believe Mr. Arnold.

18 Q Where were you sitting, Miss Spaulding?

19 A Next to him.

20 Q Would that be in the front seat?

21 A Yes.

22 Q And where was the defendant, Thomas Creech, sitting?

23 A Next to me by the door.

24 Q And where was Mr. Bradford?

25 A I believe he was laying in the back seat.

1 Q Now, Miss Spaulding, at that time do you know
2 whether all of the doors to that car would open?
3 A The driver's door would not open.
4 Q And would the door on the passenger side of the
5 front seat open?
6 A Yes.
7 Q Could you describe the interior, the condition of
8 the interior of the car about the time you left McCall, Idaho
9 going south?
10 A Dirty.
11 Q When you left McCall, Idaho going south, where did
12 you go to; do you know?
13 A We drove.
14 Q Did you drive south along the highway?
15 A Towards Cascade.
16 Q Did you have occasion to stop along the highway at
17 any time?
18 A I believe we stopped and siphoned some gas.
19 Q And I'm talking about now, when all four of you
20 were in this car that we looked at, the picture of.
21 A Yes.
22 Q And do you have any idea where you were when you --
23 somebody siphoned the gas?
24 A No.
25 Q Was that before you got down by Donnelly, Idaho?

1 A. I believe so.

2 Q. And then did you have occasion to stop the car

3 about a mile south of Donnelly, Idaho?

4 A. I don't know where, but we did.

5 Q. Did you -- was the car stopped that evening?

6 A. Yes.

7 Q. Do you have any idea of the time of night that was?

8 A. Close to midnight.

9 Q. And at the time the car stopped, tell me where

10 everyone in the car was seated, please.

11 A. Mr. Bradford was lying in the back seat, Mr. Arnold

12 was sitting in the driver's seat, I was sitting next to him and

13 Mr. Creech was sitting next to me.

14 Q. So, the three of you; Arnold, you and the defendant,

15 were sitting in the front seat; is that correct?

16 A. Yes.

17 Q. Did you have any conversations just prior to

18 stopping with -- did you have any conversation with anyone in

19 the car at that time?

20 A. Yes.

21 Q. And can you tell me what was said?

22 A. I told Mr. Creech to trade places with me as

23 Mr. Arnold was putting his arms around me and reaching for my

24 breasts.

25 Q. And, then, did he say anything, Miss Spaulding?

1 Mr. Creech?

2 A. I don't remember.

3 Q Did Mr. Arnold then stop the vehicle?

4 A. Yes.

5 Q And then what happened, Miss Spaulding?

6 A. Tom got out of the car, then I got out and he
7 shoved me away and shot at both the men.

8 Q And who shot at the men?

9 A. Mr. Creech.

10 Q And who did he shoot first?

11 A. I believe the man that was driving.

12 Q And then were you watching at this time?

13 A. I could see what was happening.

14 Q Would you describe, please, for us.

15 A. He shot at them and they bled, they were dead.

16 Q They what happened, Miss Spaulding?

17 A. Then he removed the bodies and laid them in a ditch.

18 Q And then, please continue.

19 A. Then he came back to the car and told me to get in
20 and we drove on.

21 Q Did you see Thomas Creech with the gun that night
22 at that time that you've just described?

23 A. At the time he shot them?

24 Q Yes.

25 A. Yes.

1 Q Did you see the gun in his hand?
2 A Yes.
3 Q Miss Spaulding, I'm going to hand you what's been
4 marked and admitted into evidence as State's Exhibit 22. Now,
5 you don't have to hold it if you don't want to.
6 A Okay.
7 Q Can you tell me whether or not that resembles the
8 gun he held that night?
9 A It resembles.
10 Q Did it look like this gun?
11 A Yes, I believe so.
12 Q Miss Spaulding, I think you said that the
13 defendant told you to get in the car and then you left the
14 scene, is that right?
15 A Yes.
16 Q Do you remember where you went then?
17 A We stopped in Cascade.
18 Q And who was driving as you left the scene?
19 A Tom Creech.
20 Q Um-hmm. And what, if anything, did you do in
21 Cascade?
22 A He tried to hot wire a car.
23 Q Was that successful?
24 A No.
25 Q Do you have any idea how long you were in Cascade?

1 A. Possibly a half hour.

2 Q. Was it still nighttime?

3 A. Yes.

4 Q. And, then, after the unsuccessful attempt to hot
5 wire the car, what, if anything, did you and Tom Creech do?

6 A. We went back in the car that we was driving in and
7 drove down the road.

8 Q. And then what happened next, if anything?

9 MR. BOYD: Still in Valley County, Counselor?

10 MR. REMAKLUS: Yes, we are.

11 THE WITNESS: He pulled into a place so he could rest.
12 He was tired and wanted to sleep. It was behind a building,
13 but he pulled out and went down a little farther and stopped.

14 Q. BY MR. REMAKLUS: And did you stay there for awhile?

15 A. Yes.

16 Q. And then what happened, if anything, Miss Spaulding?

17 A. We drove a little further until the car ran out of
18 gas, then parked it beside the road and got out and hitchhiked.

19 Q. Was it daylight by this time?

20 A. Yes.

21 Q. Showing you -- handing you what -- again, what's
22 been marked as State's Exhibit 28-A, would you look at the
23 background in that picture?

24 A. Yes.

25 Q. Do you recognize that at all?

1 A. No.

2 Q. Does that resemble, in any way, the place where

3 you left the car?

4 A. I don't remember. It was next to the -- oh, to a

5 river.

6 Q. It was?

7 A. Yes.

8 Q. Was it foggy that morning when you hitchhiked away?

9 A. I don't remember.

10 Q. As you hitchhiked away from this place, where did

11 you go, Miss Spaulding?

12 A. To Boise.

13 Q. And were you still with Mr. Creech at this time?

14 MR. BOYD: Refuse to answer.

15 MR. REMAKLUS: Your Honor, as I understand the ruling

16 of this Court, I'm not confined to asking questions of what

17 happened in Valley County and, if I understand the ruling

18 correctly, if I ask questions that might tend to incriminate

19 her in criminal activities outside of Valley County --

20 THE COURT: Yes, that's right.

21 MR. REMAKLUS: -- and I didn't start my story properly

22 and I thought maybe we'd get rid of these objections. May I

23 continue.

24 THE COURT: Well, would you like to argue the matter,

25 Mr. Boyd?

1 MR. BOYD: Yes, sir.

2 THE COURT: All right.

3 We'll take this up out of your presence, ladies
4 and gentlemen. If you will remember the admonition, don't
5 discuss the case and keep your minds open.

6 (Jury left the courtroom.)

7 MR. BOYD: The way I understood the Court's ruling is,
8 you feel that you can only -- you only can grant immunity on
9 anything that would tend to incriminate Miss Spaulding in
10 Valley County, Idaho and if I understood that part correctly,
11 then, the mere fact that she was in Boise could tend to
12 incriminate her.

13 THE COURT: In what way?

14 MR. BOYD: Because from talking with my client I'm
15 aware of some facts and some things that happened in Ada
16 County where some crimes were committed; where it could be
17 alleged she was a party to them. She could be charged with
18 crimes -- or in Ada County, City of Boise. The mere fact --

19 THE COURT: And you feel that the fact that she was
20 present there at a given time might be a link in establishing
21 those crimes?

22 MR. BOYD: Absolutely.

23 THE COURT: Well, Mr. Remaklus?

24 MR. REMAKLUS: Well, Your Honor, Mr. Boyd was only -- it
25 was my intention to trace their route of travel from where the

1 shooting occurred down to where the arrest occurred and the
2 events that happened in connection with the arrest.

3 I have no desire to ask her -- no intention of.
4 asking her anything about what happened in Boise, Idaho.

5 MR. BOYD: Of course, I understand that. I'm still
6 going to advise her not to answer.

7 THE COURT: You feel she would incriminate herself,
8 Mr. Boyd, if she placed herself in Elmore County? Do you have
9 any knowledge of any alleged criminal offenses in Elmore
10 County?

11 MR. BOYD: Other than it's my understanding of the
12 facts that if permitted to testify, from what I've heard so far,
13 without her being on the witness stand, that there will be an
14 effort made to connect the revolver that's in evidence with
15 Miss Spaulding.

16 I think that could tend to incriminate her; the
17 fact if she had a revolver in her possession.

18 THE COURT: Is that the only criminal circumstance in
19 Elmore County you are aware of?

20 MR. BOYD: That's what I have in mind, yes.

21 THE COURT: Well, this is the language in the Statute
22 that I'm referring to about any other jurisdictions, once the
23 order to show cause is had as to why the witness shouldn't
24 answer.

25 The Statute provides: "The Court shall order the

1 question answered, or the evidence produced until it finds that
2 to do so would be clearly contrary to the public interest or
3 could subject the witness to a criminal prosecution in
4 another jurisdiction."

5 Now, the only way I can relate that phrase and
6 "other jurisdiction" to be to the jurisdiction in which this
7 offense occurred, would be Valley County; which, to me, would
8 exclude Ada County or any other county; other than Valley
9 County.

10 In other words, I can't order her to answer
11 questions that would possibly subject her to criminal
12 prosecution in another jurisdiction and I can't relate that
13 word "jurisdiction" to anyplace other than the place where
14 this particular offense occurred.

15 MR. REMAKLUS: Of course, we have absolutely no
16 knowledge of any criminal activity in Elmore County and --

17 THE COURT: All right, I won't allow her to refuse to
18 answer as far as her presence in Elmore County. I will in
19 Ada County, but not in Elmore County; if your questioning
20 does not tie her, in any way, with the gun in Elmore County.

21 MR. REMAKLUS: That's the only purpose of it, not --
22 is to show how she came into possession of the gun. There's
23 no criminal activity as far as I know in connection with
24 Miss Spaulding.

25 THE COURT: There may be, I guess, that's what Mr. Boyd

1 is concerned about.

2 MR. BOYD: Yes, that's my concern.

3 THE COURT: I'm not convinced there couldn't be
4 criminal activity in her possession of the gun.

5 MR. REMAKLUS: I guess I am, Your Honor, that's why I
6 think she should be ordered to answer.

7 THE COURT: Well, I'm not going to order her to answer
8 if that's your purpose.

9 MR. REMAKLUS: Well, yes, that is my only purpose.

10 THE COURT: All right, I'm going to grant the privilege,
11 then.

12 MR. REMAKLUS: Fine, thank you, Your Honor.

13 THE COURT: Bring the jury back.

14 (Jury re-entered the courtroom.)

15 THE COURT: Show the jurors are all present.

16 You may continue questioning, if you'll limit
17 yourself to Valley County, or matters in Elmore County that
18 don't involve any possible incrimination.

19 MR. REMAKLUS: Thank you, Your Honor.
20
21
22
23
24
25

DIRECT EXAMINATION (Continued)

BY MR. REMAKLUS:

Q Miss Spaulding, after you and Mr. Creech hitchhiked away from where you left the car up in Valley County, did you eventually wind up at Glenns Ferry, in Elmore County, Idaho?

A Yes, sir.

Q And how did you get to Glenns Ferry, Idaho?

A We hitchhiked.

Q And when you say "we" who are you referring to?

A Myself and Mr. Creech.

Q And when you entered -- had you hitchhiked a ride and gotten to Glenns Ferry? Who were you with?

A A man. I don't know his name.

Q Is the name Steven Paul Rivers familiar to you?

A I believe so, but I don't know if that was the same man.

Q Could it have been him?

A Yes.

Q Could you describe the man who you were riding with when you went into Glenns Ferry?

A No.

Q What if anything did you and the driver of the car do when you stopped at Glenns Ferry, Idaho?

A We went in to have a cup of coffee at a restaurant.

1 Q And this was you and the driver of the car?
2 A Yes.
3 Q Was there anyone in the restaurant?
4 A Yes.
5 Q Did you see anyone in there besides who was
6 working there?
7 A There was a police officer there.
8 Q And did you have coffee there?
9 A Yes.
10 Q Did you take it along with you?
11 A I believe we got a cup of coffee to go, to give to
12 Tom Creech.
13 Q And where was Mr. Creech when you and the driver
14 of the car were in the cafe?
15 A He was sitting in the car.
16 Q Could you describe the car for me, please.
17 A No, it had a tape deck in it.
18 Q And you remember anything about the color of the
19 car?
20 A No, it was dark when we met this man.
21 Q Where did this man pick you up?
22 MR. BOYD: Refuse to answer.
23 THE WITNESS: Refuse to answer.
24 Q BY MR. REMAKLUS: Do you remember -- was it dark
25 when you were picked up?

1 A. Yes.

2 Q. What was the weather like?

3 A. I believe it was cool.

4 Q. And did you get back in the car, then? You and

5 the driver get back into the car after you had left the cafe

6 in Glenns Ferry?

7 A. Yes.

8 Q. And please describe where everyone was sitting,

9 would you?

10 A. The driver was sitting, driving. I was sitting

11 next to him, Tom was sitting aside of me.

12 Q. And, then, what, if anything, happened?

13 A. We drove for awhile, we were going to stop and

14 rest. We drove for awhile and we got pulled over.

15 Q. And describe what you mean by being "pulled over".

16 A. The police drove up behind us.

17 Q. And how did you know it was the police?

18 A. They had lights on their car.

19 Q. Were they colored lights?

20 A. Yeah.

21 Q. And then what happened?

22 A. They pulled us over, told us to get out of the car.

23 Q. Did you?

24 A. Yes. They had guns.

25 Q. And just go ahead and explain what happened, please,

1 as you recall.

2 A. They took us into a little police station in
3 Glenns Ferry. They questioned us, they took us to
4 Mountain Home.

5 Q. How did you get to Mountain Home, Miss Spaulding?

6 A. I believe some officers took us.

7 Q. And who did you ride with?

8 A. I don't know.

9 Q. Were you with Tom Creech from Glenns Ferry to
10 Mountain Home?

11 A. Yeah, yes.

12 Q. And where were you -- you traveled by car; did you
13 not?

14 A. Yes.

15 Q. And where were you and Mr. Creech seated in the
16 car?

17 A. In the back seat, I believe.

18 Q. Was anyone else in the back seat with you?

19 A. I don't know.

20 Q. And did you and Tom Creech talk together on the
21 way from Glenns Ferry to Mountain Home?

22 A. I believe so.

23 Q. And would you tell me what you said and what he
24 said?

25 A. I don't remember.

1 Q. You don't remember any of it?

2 A. No.

3 Q. Miss Spaulding, returning to the scene of the
4 shooting, did you have any knowledge that Tom Creech was going
5 to shoot those two men?

6 MR. ROBINSON: Object, leading and suggestive,
7 Your Honor.

8 THE COURT: Overruled.

9 Q. BY MR. REMAKLUS: Did you know that Tom was going
10 to shoot those two men before he did it?

11 A. No.

12 Q. Had either Tom Arnold or Wayne Bradford attacked
13 you sexually or physically?

14 A. The man that was driving had his -- one of his
15 arms around me and was reaching at my breasts and --

16 Q. And was there anything -- did either one of them
17 try to rape you?

18 A. No, I don't -- that, I suppose, someone could call
19 that rape, attempted rape.

20 MR. ROBINSON: Sorry, I can't hear the witness.

21 THE COURT: She said she supposed someone could call
22 that attempted rape.

23 Speak up just a little when you answer.

24 THE WITNESS: Okay.

25 Q. BY MR. REMAKLUS: At that time, Miss Spaulding,

1 how would you describe -- or could you describe the actions of
2 the driver and Mr. Bradford for us?

3 A. At what time?

4 Q. Oh, just before the shooting, from McCall down to
5 where the shooting occurred.

6 A. They were quite drunk.

7 Q. Were you afraid of either one of them?

8 A. I don't think so.

9 Q. Miss Spaulding, handing you what's in evidence as
10 State's Exhibit 24, would you look at that, please.

11 A. Yes.

12 Q. Is that your coat?

13 A. Yeah.

14 Q. You recognize it?

15 A. Yeah.

16 Q. Is that the coat that you were wearing on the day
17 of the shooting -- or on the night of the shooting?

18 A. Yes.

19 Q. Handing you what's got a mark in her Q-31 that's
20 for identification only; do you recognize this jacket,
21 Miss Spaulding?

22 A. Yes.

23 Q. Do you know whose it is?

24 A. I believe Tom's. Tom was wearing it.

25 Q. Was he wearing it on the day the shootings occurred?

1 A. I believe so.

2 Q. It was cold weather on that day; wan't it?

3 A. I think.

4 Q. Handing you what's been admitted into evidence as

5 State's Exhibit 25, Miss Spaulding, is that your handbag?

6 A. Yes.

7 Q. Did you have that handbag in your possession at

8 the time the shootings occurred?

9 A. Yes.

10 Q. And did you have that handbag in your possession

11 at Glenns Ferry, Idaho, when the officers arrested you?

12 A. Yes.

13 Q. When you were with -- can you think back and tell

14 me what other clothing that Tom Creech had on the night of the

15 shooting?

16 A. A pair of black pants with seams in the front.

17 Q. Miss Spaulding, returning again --

18 THE COURT: Just a minute, Mr. Remaklus. The witness

19 would like a drink.

20 (Brief delay.)

21 Q. BY MR. REMAKLUS: Miss Spaulding, at any time

22 before you got to -- before you got to Glenns Ferry, Idaho,

23 did you have that gun in your purse?

24 A. I believe so.

25 Q. And how did it get there?

1 A Mr. Creech put it there.
2 Q I can't hear.
3 A Mr. Creech put it there.
4 Q Thank you. Returning to the scene of the shooting,
5 can you tell me whether or not anyone had a pocketknife at that
6 time?
7 A Yes.
8 Q And who was that?
9 A Mr. Bradford and Tom had one.
10 Q And where did you -- did you see either one of
11 these knives at the moment of the shooting?
12 A I don't think so.
13 Q And did you see anyone put a knife to Tom Creech's
14 throat?
15 A I don't believe so.
16 Q And were both men still in the automobile when
17 Tom Creech shot them?
18 A Yes.
19 Q And where was Tom Creech at that time?
20 A At the door of the car, just outside.
21 Q Just outside?
22 A Just a step outside the car.
23 Q Thank you. Miss Spaulding, handing you what's
24 been admitted into evidence as State's Exhibit 1-A, I will
25 ask you if you recognize that person?

1

A. No.

2

3

4

Q. Miss Spaulding, handing you what's been marked and admitted into evidence as State's Exhibit 1-G, I will ask you if you recognize that person?

5

A. (No audible response.)

6

7

MR. ROBINSON: I'm sorry, I don't know of either one, what her response was.

8

9

THE COURT: She said "No" on the first one and didn't answer on the second.

10

MR. ROBINSON: Thank you, sir.

11

12

THE COURT: We will take a ten-minute recess at this time if you'll remember the admonition, don't discuss the case and keep your minds open.

13

14

(Recess taken.)

15

(Jurors re-entered the courtroom.)

16

THE COURT: Show the jurors are all present.

17

18

Q. BY MR. REMAKLUS: Miss Spaulding, at the moment the shots were fired, where were you standing?

19

A. I don't know.

20

Q. Were you outside of the car?

21

A. Yes.

22

MR. REMAKLUS: You may examine, Mr. Robinson.

23

24

25

CROSS EXAMINATION

BY MR. ROBINSON:

Q Miss Spaulding, where were you born? Month, day and year.

A December 20, 1956.

Q And where were you born?

A Los Angeles, California.

Q How long did you stay, after that, in the Los Angeles, California area; if you know?

A Approximately ten years.

Q Did you attend school in Los Angeles?

A Yes.

Q What grades?

A One through five.

Q Where?

A Various schools. I don't know.

Q Can't remember the names of any of the grade schools?

A No.

Q After leaving Los Angeles where do you remember going, or moving to?

A Seattle, Washington.

Q And when was that?

A Approximately when I was about ten years old.

Q Can you talk up a little louder, please.

1 A. When I was approximately ten years old.

2 Q. And were you still living with both your mother

3 and your father when you moved to Seattle?

4 MR. REMAKLUS: Object, Your Honor. This is beyond the

5 scope of direct examination.

6 MR. ROBINSON: If it please the Court, basic foundation,

7 going into the examination of this witness as to habits of

8 truth and veracity.

9 THE COURT: All right. Overruled.

10 THE WITNESS: What was the question?

11 Q. BY MR. ROBINSON: Were you still living with both

12 your mother and father when you moved to Seattle, Washington?

13 A. No.

14 Q. Had your parents separated by that time?

15 A. Yes.

16 Q. How long before you moved to Seattle had they

17 separated?

18 A. Maybe a year.

19 Q. All right. At that time you had brothers and

20 sisters, both? Did you have both, brothers and sisters at

21 the time of that separation?

22 A. Yes, yes.

23 Q. Who were they? What are their names and tell us

24 whether or not they were older or younger than yourself.

25 A. I have an older sister, Jeannie Louise Spaulding,

1 she's approximately 29 at the time.
2 Q Twenty what?
3 A Twenty-nine at the present. I have a younger
4 sister, Kathleen Spaulding, she's 15 at the time.
5 Q She's 15 now, or 16?
6 A Fifteen.
7 Q And is that -- her nickname, "Kathy"?
8 A Yes.
9 Q All right.
10 A I have a brother whose name is Glen Spaulding,
11 he's 11.
12 Q All right. Any other brothers and sisters besides
13 those you named?
14 A No. I have foster sisters and brothers.
15 Q What do you mean, "foster sisters and brothers"?
16 A Where I was in a foster home with.
17 Q How many foster homes have you been in?
18 A I don't know. Quite a few.
19 Q Give us your best count as you remember.
20 A Five.
21 Q At the time of your mother and father's separation,
22 what was your father's occupation?
23 A I believe he was repossessing cars.
24 Q Where?
25 A In and around Los Angeles.

1 Q Did your father follow any particular trade?
2 A He's with the carnival at the time.
3 Q He's now with the carnival?
4 A Yeah, he owns quite a bit of the carnival.
5 Q How long has he been with a carnival?
6 A I'm not sure.
7 Q Was he with the carnival in August and September
8 of 1974?

9 A Yes.

10 MR. REMAKLUS: This is beyond the scope of direct
11 examination, Your Honor. I object.

12 THE COURT: Yes, I think you have a right to go into
13 the certain things as to memory, but I'm going to sustain the
14 objection as beyond the scope of direct examination at this
15 point.

16 Q BY MR. ROBINSON: When did you first meet
17 Thomas Eugene Creech?

18 MR. BOYD: Refuse to answer.

19 THE WITNESS: I refuse to answer.

20 THE COURT: Yes, I'm going to allow the privilege.

21 MR. ROBINSON: May I proceed, Your Honor.

22 THE COURT: Yes.

23 MR. ROBINSON: Then, Your Honor, I promise the Court
24 that I'm not flying into the face of the Court's rulings, I
25 believe that I must ask these questions and have the objection

1 made to them specifically, each time.

2 THE COURT: Go ahead.

3 MR. ROBINSON: All right, sir.

4 Q BY MR. ROBINSON: Where did you meet
5 Thomas Eugene Creech?

6 MR. BOYD: Refuse to answer.

7 MR. REMAKLUS: I would object on the grounds it's
8 outside the scope of the direct examination, Your Honor.

9 THE COURT: I'll sustain the objection and I'll let her
10 exercise the privilege.

11 Q BY MR. ROBINSON: On November 4, 1974, were you a
12 drug user?

13 MR. BOYD: Refuse to answer.

14 THE WITNESS: I refuse to answer.

15 MR. REMAKLUS: Same objection. May I have a continuing
16 objection, Your Honor.

17 THE COURT: Yes, and I'll sustain the objection,
18 beyond the scope of direct examination and, also allow the
19 privilege.

20 Q BY MR. ROBINSON: Do you drink intoxicating
21 beverages?

22 A Very frequently.

23 Q Very frequently?

24 A Not very often.

25 Q Not very often?

1 On both November the 3rd, 1974 and the early
2 morning hours of November 4, 1974, were you drinking intoxicating
3 beverages?

4 MR. BOYD: Refuse to answer unless it's established
5 where.

6 THE WITNESS: I refuse to answer.

7 THE COURT: Yes, I'll allow the privilege unless it's
8 established where this was.

9 MR. ROBINSON: All right, sir.

10 Q BY MR. ROBINSON: Were you under the influence of
11 intoxicating beverages in Valley County, at Donnelly, Idaho
12 on November the 4th, 1974?

13 A No.

14 Q Were you under the influence of drugs in the early
15 morning hours of November 4th, 1974 at Donnelly, Idaho, in
16 Valley County?

17 A No.

18 Q Did you use drugs extensively prior to your
19 meeting Thomas Eugene Creech?

20 THE WITNESS: I refuse to answer.

21 MR. REMAKLUS: I'll --

22 THE COURT: State your objection.

23 MR. REMAKLUS: Yes, this is beyond the scope of direct
24 examination, Your Honor.

25 THE COURT: I'll sustain the objection and allow the

1 privilege.

2 Q BY MR. ROBINSON: Were you the one that actually
3 stole the gun from Mr. Schreiber's bed in Lewiston?

4 MR. BOYD: Refuse to answer.

5 MR. REMAKLUS: I'll --

6 THE WITNESS: I refuse to answer.

7 MR. REMAKLUS: And my same objection; beyond the scope
8 of --

9 THE COURT: I'll allow the privilege and sustain the
10 objection.

11 Q BY MR. ROBINSON: Was Danny and Kathy, both, with
12 you -- with Arnold and Bradford in Valley County at Donnelly,
13 Idaho?

14 A No, sir.

15 Q Pardon?

16 A No.

17 Q Did you search the trunk of that 1956 Buick for
18 a pound of "Smack" or heroin?

19 A No.

20 MR. REMAKLUS: Object on the ground it's beyond the
21 scope of the direct examination, Your Honor.

22 THE COURT: The answer may stand. She's already said
23 "no". The objection is overruled.

24 Q BY MR. ROBINSON: Was the trunk of that vehicle
25 searched by anyone to locate a pound of "Smack" or heroin?

1 MR. REMAKLUS: Same objection, Your Honor.

2 THE COURT: I'll sustain it unless you identify the
3 time and the place, Mr. Robinson.

4 Q BY MR. ROBINSON: This is shortly after Arnold and
5 Bradford were killed at that location near Donnelly, Idaho,
6 in Valley County.

7 MR. REMAKLUS: I would renew my objection.

8 THE COURT: Overruled.

9 THE WITNESS: Not to my knowledge.

10 Q BY MR. ROBINSON: Do you know whether any was
11 found?

12 A. No.

13 Q Was it believed at that time that Arnold and
14 Bradford had a pound of heroin or "Smack"?

15 MR. REMAKLUS: I'm going to object to that, what it
16 was believed. It isn't even a question, Your Honor, beyond the
17 scope of direct examination in any event.

18 THE COURT: Yes, I'm going to sustain the objection.
19 It calls for a conclusion if it applies to anybody else. I
20 don't know who the question was directed to, whose belief?

21 MR. ROBINSON: I'll clarify it, Your Honor.

22 Q BY MR. ROBINSON: Did you have a belief prior to
23 Arnold and Bradford being killed at that location, Donnelly,
24 Idaho, in Valley County on the 4th day of November 1974, that
25 they had drugs and, specifically, a pound of "Smack" or

1 heroin?

2 A. No, I didn't.

3 Q. What was the purpose of the stop at the motel in
4 McCall, Idaho; which is also located in Valley County, State
5 of Idaho?

6 A. To get out, stretch, wash up and go to the
7 restroom.

8 Q. Will you talk up, please, Carol. I can hardly hear
9 you.

10 A. To get out of the car, get some fresh air, go to
11 the bathroom, wash up if needed.

12 Q. What time of the day did you stop in McCall?

13 A. I don't know.

14 Q. Was it during the daylight hours?

15 A. No.

16 Q. Was it before midnight?

17 A. I don't know.

18 Q. Did you rent a motel unit?

19 A. No.

20 Q. Did you wash up?

21 A. I believe so.

22 Q. Where?

23 A. In the restroom at the motel.

24 Q. Was there also a service station next to the
25 motel?

1 A. I didn't notice. I don't know.

2 Q. Well, do they have a public restroom available at

3 the motel?

4 A. Inside of the motel.

5 Q. Did that happen to be the Shore Lodge?

6 A. I can't be sure of that.

7 Q. Was it located right on the lake?

8 A. I believe so.

9 Q. How long were you there?

10 A. Maybe ten minutes at the most.

11 Q. Did all of you that were occupying the car go

12 into that motel?

13 A. I don't know.

14 Q. Well, did anyone else get out of the car besides

15 you and go into the motel?

16 A. Yes.

17 Q. Who?

18 A. Tom Creech, the other man named Tom. I'm not

19 sure about the other one, the man called Bradford.

20 MR. ROBINSON: Your voice is barely audible. Would

21 you keep it up so that this very last lady here (indicating)

22 on the jury can hear everything you say, please.

23 THE WITNESS: Yes.

24 MR. ROBINSON: All right.

25 THE WITNESS: I believe Mr. Creech, myself and

1 Mr. Arnold went into the motel. I'm -- I can't be sure of
2 Mr. Bradford.

3 Q BY MR. ROBINSON: At that point in time did any
4 of the four of you have any money?

5 A I believe so.

6 Q Who had money and how much?

7 MR. REMAKLUS: I'm going to object on the grounds it's
8 outside the scope of the direct examination, Your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: I believe there was -- Mr. Arnold had
11 sold his coat at a bar so they could get some beer. I don't
12 know if he spent all the money or not.

13 Q BY MR. ROBINSON: How much did he sell the coat
14 for?

15 A I don't know.

16 Q Do you remember what town the bar was in?

17 A No.

18 Q All right. Who else had any money and how much?

19 A I believe Tom had some money. There was a
20 battery charger stolen and sold. I don't know how much.

21 Q Where was the battery charger stolen and where
22 was it sold?

23 MR. BOYD: Refuse to answer.

24 THE WITNESS: I refuse to answer.

25 THE COURT: Yes, I'll allow the privilege.

1 Q BY MR. ROBINSON: How much did Tom have on him at
2 that point when you stopped at the motel?

3 A I do not know.

4 Q How much money did you have?

5 A None.

6 Q And do you know whether or not Mr. Bradford
7 had any?

8 A No.

9 Q Did all four of you smoke a joint, or marijuana,
10 there at that motel?

11 MR. REMAKLUS: I'd object on the grounds that's
12 outside of the scope of the direct examination.

13 THE COURT: Overruled.

14 THE WITNESS: No, we didn't.

15 Q BY MR. ROBINSON: Did any one of the four of you
16 smoke marijuana or pot at that motel?

17 A No, not to my knowledge.

18 Q Do you remember your stop in Grangeville, Idaho?

19 A Yes.

20 Q Do you remember being in a Texaco station there
21 on two different occasions, about a half hour apart from each
22 other the evening before Arnold and Bradford were killed?

23 MR. BOYD: Refuse to answer.

24 THE WITNESS: I refuse to answer.

25 THE COURT: Yes, I'll allow the privilege.

1 Q BY MR. ROBINSON: Miss Spaulding, other testimony
2 by another witness in Grangeville identified a girl with blonde
3 straight hair in a maxi coat with a hood on it in the company
4 of two men at a Texaco station in Grangeville.

5 He attempted to describe the two men -- or this
6 witness that testified here attempted to describe the two men.
7 Who were those two men with you at that time in Grangeville
8 at that Texaco station?

9 MR. BOYD: Refuse to answer.

10 THE COURT: I'm wondering, Mr. Boyd, this isn't in
11 Nez Perce County, as I understand this is Idaho County; is
12 that correct?

13 MR. ROBINSON: That's correct, Your Honor.

14 THE COURT: Is there a problem? This isn't in the same
15 county as Lewiston; this is Idaho County.

16 MR. BOYD: I've got a problem with that.

17 THE COURT: Have you?

18 MR. BOYD: Yes, sir. I can represent to the Court --

19 THE COURT: All right, I'll allow the privilege, then.

20 Q BY MR. ROBINSON: Miss Spaulding, were you
21 carrying State's Exhibit No. 22 and 23, the gun and holster,
22 while and when you were in Grangeville, Idaho?

23 A No.

24 Q Were you carrying that gun and holster when you
25 were in McCall, Idaho?

1 A No.

2 Q When was the first time that that gun was in your

3 possession?

4 A I believe in Boise --

5 Q All right.

6 A -- Idaho.

7 Q Was that before or after Arnold and Bradford were

8 killed?

9 A It was after.

10 Q I believe when you testified the other day you

11 said that your present residence is Carson City, Nevada at the

12 Nevada State Penitentiary; is that correct?

13 A Yes.

14 Q And how long have you been living there?

15 A Since May.

16 Q May of this year, 1975?

17 A Yes.

18 Q And have you been in custody and held in jail from

19 that day that you were picked up with Tom, November the 8th,

20 1974 until the present time?

21 A Yes, in prison.

22 Q Beg your pardon?

23 A In prison and jail and juvenile detention.

24 Q At the Idaho State Penitentiary?

25 A Yeah, and I was in Juvenile Detention, Ada County

1 Juvenile Facilities.

2 Q All right. And it's my understanding that you have
3 pled guilty to a charge of Accessory and Harboring a Fugitive?

4 A Yes.

5 Q And that's the reason that you are presently in
6 custody?

7 A Yes.

8 Q Aside from this charge, have you ever before been
9 convicted of a felony?

10 A No.

11 Q Have you ever before been picked up and held in
12 detention --

13 MR. REMAKLUS: I'll object --

14 MR. ROBINSON: -- by law enforcement officials?

15 MR. REMAKLUS: That's outside the scope of the direct
16 examination.

17 THE COURT: Objection sustained.

18 Q BY MR. ROBINSON: Miss Spaulding, have you in the
19 past and, specifically since you were 11 years old, been
20 accused of and proven to have lied on many occasions?

21 MR. REMAKLUS: I'll object as being beyond the scope of
22 direct examination, too general, calls for a conclusion.
23 Improper cross-examination.

24 THE COURT: Yes, I'm going to sustain the objection.

25 Q BY MR. ROBINSON: When was the first time that

1 either Arnold or Bradford made sexual advances towards you in
2 that vehicle?

3 A. After we left the lodge in McCall. After we left
4 McCall.

5 Q. And that was the first time?

6 A. Yes.

7 Q. Nothing of that nature occurred in Grangeville?

8 MR. BOYD: Refuse to answer.

9 THE COURT: Were you going to refuse?

10 THE WITNESS: Yes.

11 THE COURT: I'll allow the privilege.

12 Q. BY MR. ROBINSON: And what happened specifically
13 after you left the lodge in regard to either Arnold or Bradford
14 making advances towards you?

15 A. Mr. Arnold, the one that was driving, put his arm
16 around me and reached at my breasts.

17 Q. How long after you left the lodge?

18 A. When we got back to the road, to the freeway. I
19 don't know how long.

20 Q. Before you left McCall?

21 A. No, it was after we were out of McCall.

22 Q. And what did he say to you in that regard?
23 Anything?

24 A. I don't remember.

25 Q. Did he make any comment or proposition, sexually,

1 towards you at that time?

2 A. I don't remember.

3 Q. During the time that the four of you, then, were in
4 this vehicle, from the time you left the lodge until both men
5 were killed, did Mr. Bradford, John Wayne Bradford in the
6 back seat, make any of these advances at you?

7 A. I don't think so.

8 Q. Did he make any comment?

9 A. I believe he just sort of laughed.

10 Q. Laughed at what?

11 A. I don't know.

12 Q. Did you tell Tom Arnold to quit it?

13 A. I moved away from him.

14 Q. And then what happened?

15 A. He didn't quit, so I asked him to pull over.

16 Q. Did you ask him to pull over so that you could go
17 out and go to the bathroom?

18 A. Yes.

19 Q. And was that the reason that the vehicle was
20 stopped at that location south of Donnelly?

21 A. Yes, that -- I -- I had expected to get back in
22 with Tom getting in first and me getting in where I wouldn't be
23 sitting next to Mr. Arnold.

24 Q. What was the conversation as you can remember it;
25 between yourself, Tom Arnold, Tom Creech and Wayne Bradford?

1 MR. BOYD: Refuse to answer unless we know the time.
2 Q BY MR. ROBINSON: Immediately prior to stopping the
3 vehicle south of Donnelly, Idaho.
4 A I don't believe there was any.
5 Q How did Tom Creech become aware that Tom Arnold was
6 making these sexual advances towards you?
7 A I imagine he saw him.
8 Q Did you say anything about it?
9 A I told him, I asked him -- I let him know that I
10 wanted him to get in before me, trade places with me.
11 Q Did you tell him for what reason?
12 A No, I don't believe so.
13 Q Were you pregnant at that time?
14 MR. REMAKLUS: Object, that's outside the scope of the
15 direct examination, Your Honor. No bearing on any of the issues
16 in this case.
17 THE COURT: Yes, I'll sustain the objection.
18 Q BY MR. ROBINSON: Had you told Tom Creech that you
19 were pregnant at that time?
20 MR. REMAKLUS: The same objection, Your Honor.
21 THE COURT: Overruled.
22 THE WITNESS: I believe -- I didn't know I was pregnant,
23 but I think Tom knew I was.
24 Q BY MR. ROBINSON: Pardon?
25 A I didn't know I was pregnant but I think Mr. Creech

1 knew I was because he told my mother I was pregnant.

2 Q That was before you left Lewiston?

3 A Yes.

4 Q So, Tom knew before you did?

5 (Brief delay.)

6 THE COURT: I'm going --- if there's any more
7 disturbance back in the courtroom I'm going to clear the courtroom

8 Q BY MR. ROBINSON: Is that what you are saying,
9 Miss Spaulding?

10 A I don't know how Tom could have known because I
11 didn't. I found out I was pregnant after I got arrested.

12 Q Now, a child was actually born to you June the 30th,
13 1975, this year; is that correct?

14 A Yes.

15 Q Is it your testimony that Tom, after your getting
16 out, just turned and shot both men without your saying anything
17 to him at all about the sexual advances being made towards you
18 by Tom Arnold?

19 A Yes. I don't remember saying anything, but he
20 noticed.

21 Q All right. Now, at any time prior to this vehicle
22 carrying the four of you arrived in Donnelly, Idaho, do you
23 recall an incident occurring where Wayne Bradford had a knife at
24 Tom's throat?

25 A No.

1 Q Your testimony is that that never happened?

2 MR. REMAKLUS: I think it's repetitious, now. She
3 answered the question, Your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: I didn't see it.

6 Q BY MR. ROBINSON: All right. Now, do you remember
7 after you were picked up and arrested with Tom Creech, making
8 the statement to the investigating officers --

9 A Yes.

10 Q -- that Tom Creech had a knife --

11 MR. REMAKLUS: Objection --

12 MR. ROBINSON: -- at his throat prior?

13 MR. REMAKLUS: Would you not answer until I have a
14 chance to make my objection and, then, I will not be
15 interrupting Mr. Robinson.

16 MR. ROBINSON: May I finish my question, then, Your Honor?

17 THE COURT: Well, let's keep it orderly. Let
18 Mr. Robinson finish his question, then you make your objection
19 and just don't answer until I rule on it, okay?

20 MR. BOYD: Will one of these gentlemen tell me if she
21 was under oath at the time, for my information?

22 MR. ROBINSON: I don't know whether she was sworn or
23 not, Your Honor.

24 MR. REMAKLUS: Not so far as we know.

25 THE COURT: Perhaps you could identify the officer for

1 Mr. Boyd's information in your question.

2 MR. ROBINSON: All right.

3 THE COURT: In fact, I think if you are laying a
4 foundation that I think you are, I think you need to be more
5 specific in laying a foundation, Mr. Robinson, as to who was
6 present and who she was supposed to have made the statement to.

7 MR. ROBINSON: All right, sir.

8 MR. REMAKLUS: Give her a chance to admit or deny that
9 she made the same.

10 THE COURT: I am assuming you are going into prior
11 inconsistent statements, or purported prior inconsistent
12 statements?

13 MR. ROBINSON: Yes, Your Honor.

14 THE COURT: All right, you'll have to lay the foundation
15 that's required under the rule and Statute.

16 Q BY MR. ROBINSON: Miss Spaulding, do you recall
17 being arrested and taken into custody at Glenns Ferry, Idaho
18 the early AM hours of the 8th day of November, 1974?

19 A Yes.

20 Q And do you remember Officer Hill, the young
21 officer that was in the restaurant that later was also in
22 Mountain Home?

23 A No, I know who you are talking about but I don't
24 know who he was.

25 Q And do you remember Officer Freeman of the Elmore

1 County Sheriff's Office?

2 A. No.

3 Q Do you remember Officer Wess Woodall from the
4 Department of Law Enforcement Investigative Staff?

5 MR. REMAKLUS: I'll object on the grounds it's far beyond
6 the scope of the direct examination, Your Honor.

7 THE COURT: Overruled.

8 THE WITNESS: I believe so.

9 Q BY MR. ROBINSON: Do you recall these men asking
10 you in a question and answer session up in the Commissioners'
11 Room upstairs in the Elmore County Courthouse at approximately
12 10:00 to 11:00 a.m. on the 8th day of November --

13 A. I remember being questioned but not the day.

14 Q Do you remember being questioned at that place in
15 Elmore County?

16 A. In Mountain Home?

17 Q Yes.

18 A. Yes.

19 Q Do you remember what you told the officers at that
20 time?

21 MR. BOYD: Would you please ask if she was under oath
22 at this time, for my information.

23 MR. ROBINSON: I'm intending to get that, Mr. Boyd.

24 Q BY MR. ROBINSON: Do you recall the statements
25 that you made?

1 A No.

2 Q At any time during that session were you given your

3 Miranda Warnings by the law officers?

4 A Yes.

5 Q Do you know what I'm referring to as the "Miranda

6 Warnings"?

7 A No.

8 Q Were you ever advised that you didn't need to talk

9 at all, if you started to talk you could stop at any time, if

10 you wanted an attorney one would be appointed for you in the

11 event you couldn't afford one.

12 A I don't remember.

13 Q You don't remember any of that?

14 A I don't remember them telling me that at that

15 time.

16 Q Do you remember signing any documents that had all

17 of that writing on it; that you read and initialed?

18 A At the time when I was in the Ada County Juvenile

19 Detention I do.

20 Q You don't remember any of that before the Ada

21 County Jevenile Detention?

22 A No.

23 Q Do you remember whether or not you told those

24 officers at that time, at that place, Elmore County,

25 Mountain Home, Idaho, on the 8th day of November, 1974 between

1 the hours of 10:00 and 11:00 that John Wayne Bradford had a
2 knife at Tom's throat for some time prior to the shootings
3 taking place?

4 MR. BOYD: Refuse to answer. I still don't know if she's
5 under oath or not, Your Honor.

6 THE COURT: Yes, I'm going to allow the privilege unless
7 you establish that she wasn't under oath at that time.

8 Q BY MR. ROBINSON: Miss Spaulding, during that time
9 did anyone ask you to raise your right hand and give you an oath
10 that you were going to tell the truth, the whole truth and
11 nothing but the truth, so help you God?

12 A No, not at the time of the arrest.

13 Q You were not, then, under oath?

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q You were never, then, placed under oath?

18 A I was when I went to my own court appearance and
19 now.

20 Q Those are the only two times that you can remember
21 being placed under oath?

22 A I believe so.

23 Q All right. And did you at that time and that
24 place in Mountain Home, Idaho tell the officers that
25 John Wayne Bradford had a knife to Tom's throat for some time

1 prior to the shootings actually occurring?

2 A. Yes.

3 Q Just prior to your being arrested in Glenns Ferry,
4 Idaho, had you been taking LSD in the form of windowpane?

5 A. No.

6 Q Was there this kind of controlled substance present
7 in that car and available?

8 A. No.

9 Q Do you know whether or not Tom Creech had taken
10 this kind of dope?

11 A. No.

12 Q How long prior to that arrest was it since you had
13 last, either shot up or taken pills?

14 MR. BOYD: Refuse to answer.

15 MR. REMAKLUS: I object, it's beyond the scope of direct
16 examination, assuming facts not in evidence.

17 THE COURT: Yes, I'm going to sustain the objection.
18 It assumes facts not in evidence and allow the privilege also.

19 Q BY MR. ROBINSON: Miss Spaulding, if you can
20 remember that statement that you made to the officers at that
21 time and that place November the 8th, 1974; is there some
22 reason that you can't remember the rest of the surrounding
23 circumstances?

24 A. No.

25 Q Well, is the fact that you were there making

1 statements at that time clear in your mind now?

2 A. Yeah.

3 Q. Then, do you remember whether or not you did or
4 did not fill out these forms advising you of your rights?

5 A. I believe they showed it to me and asked me to
6 sign them and I didn't.

7 Q. And you didn't?

8 A. Yes.

9 Q. You did or did not sign them?

10 A. I believe I did not. I don't know.

11 Q. Did they give those rights to you on two different
12 occasions while you were still at the small police station in
13 Glenns Ferry?

14 A. I don't know.

15 Q. Did they again attempt to give you those rights
16 and have you sign those papers on more than one occasion during
17 that same day, November the 8th, 1974 at Mountain Home, Idaho?

18 A. I don't know.

19 Q. Is the first time you actually remember those
20 rights being given to you is when you were in Juvenile
21 Detention in Boise, Idaho?

22 A. I believe I -- they wanted me to sign some of that
23 and -- in Mountain Home, but I refused, I believe.

24 Q. In Mountain Home you recall refusing to sign any
25 of that?

1 A. I don't know for sure.
2 Q. What is the total extent of your formal education?
3 A. High school education.
4 Q. Completed the 12th grade?
5 A. I got my education by a GED test.
6 Q. Government Educational Development test?
7 A. Yes.
8 Q. How many grades did you actually attend?
9 A. Ten.
10 Q. So, your 11th and 12th grades were made up and got
11 a diploma by and through the GED test; is that correct?
12 A. Yes.
13 Q. Pardon?
14 A. Yes.
15 Q. Prior to meeting Thomas Eugene Creech, were you
16 John's old lady?
17 MR. BOYD: Refuse to answer.
18 MR. REMAKLUS: That's far beyond the scope of direct
19 examination, Your Honor.
20 THE COURT: Yes, I'll sustain the objection and allow
21 the privilege.
22 Q. BY MR. ROBINSON: Carol Spaulding, have you ever
23 been a part of an organized biker's club?
24 MR. BOYD: Refuse to answer.
25 MR. REMAKLUS: I'll object to that as being beyond the

1 scope of direct examination, Your Honor. I was limited --
2 THE COURT: You don't need to argue it. All you need do
3 is make your objection, Mr. Remaklus, and I'll rule on it.
4 MR. REMAKLUS: Yes, Your Honor.
5 THE COURT: Objection sustained and I'll allow the
6 privilege.
7 Q BY MR. ROBINSON: Now, recall back to the early
8 morning hours of November the 4th, 1974 at the site of the
9 killings of Arnold and Bradford south of Donnelly, Idaho, in
10 Valley County, State of Idaho.
11 Did you aid and assist Tom in pulling the bodies
12 of Arnold and Bradford to the ditch?
13 A No.
14 Q Do you recognize the blankets and the -- if I may,
15 Your Honor.
16 THE COURT: Yes.
17 Q BY MR. ROBINSON: Do you recognize the blanket and
18 this sleeping bag?
19 A No.
20 Q Neither one?
21 A No.
22 Q Do you remember aiding and assisting the covering
23 of these two bodies?
24 A No.
25 Q Did you kick either one of these men after they

1 were killed?

2 A. No.

3 Q Did the events of these killings cause you to get
4 sick and throw up?

5 A. No.

6 Q Either there at the scene or any time later?

7 A. No.

8 Q Were these the first two men you have ever seen
9 killed?

10 A. Yes.

11 Q How long after the shooting you described did you
12 and Tom remain at that location?

13 A. Less than five minutes, I believe.

14 Q Do you recall whether or not there was blood from
15 those two men on the seats and the interior of that car?

16 A. Yes.

17 Q Was that wiped away before you got back in the car?

18 A. I don't remember.

19 Q Did you help wipe up the blood?

20 A. No.

21 Q What did you do?

22 A. Nothing, I guess.

23 Q Pardon?

24 A. Nothing -- I don't know.

25 Q Just stood there?

1 A Yes.

2 Q Did this event ever cause you to cry out or say

3 anything?

4 A I believe so.

5 Q What?

6 A "Oh my god".

7 Q Said just the way you just said it?

8 A I think it had more emotion in it at the time.

9 Q Such as what?

10 A I was frightened.

11 Q Well, how did you say it?

12 A I cannot remember.

13 Q What other reaction did you have as a result of

14 these two men being killed at that place and at that time?

15 A I felt sick.

16 Q Felt sick?

17 A Yes.

18 Q In your stomach or in your heart?

19 A In my stomach and my heart, my head, I felt sick.

20 Q How long did it take you and Tom then to get on

21 into Cascade?

22 A I don't know.

23 Q Was there any stop along the way before you got

24 into the town of Cascade?

25 A I don't think so. No, there wasn't.

1 Q When you got into Cascade where did you first go?
2 A We got out of the car, we walked to a gas station
3 and tried to steal another car.
4 Q Was that right on the main street?
5 A Yes, it was parked in front of a gas station.
6 Q Were the lights on on Main Street in Cascade?
7 A I don't think so. I don't remember.
8 Q You know where the Courthouse is in Cascade; do
9 you not?
10 A Yes.
11 Q Where in relationship to the Courthouse was the
12 gas station that you and Tom stopped at that morning?
13 A A couple blocks away.
14 Q On "south" or towards Boise?
15 A Towards Boise.
16 Q Which side of the road?
17 A I believe the same side as the Courthouse. I'm
18 not sure.
19 Q All right. And what did you do while Tom was
20 trying to hot wire a vehicle there?
21 A I sat in it next to him.
22 Q Sat in the car that --
23 A Yeah.
24 Q -- you were going to take?
25 A Yes.

1 Q All right. And what was he working with; the
2 wiring under the dash?
3 A Yes.
4 Q Do you know what kind of a vehicle it was?
5 A No.
6 Q You don't know whether it was a Chevrolet, a Ford?
7 A I think it was a convertible.
8 Q A convertible?
9 A I'm not sure, though.
10 Q Do you recall whether it did or did not have a
11 locking mechanism on the steering column?
12 A No, I don't know.
13 Q Do you know what the reason was that the car was
14 not hot wired and taken?
15 A I believe there wasn't a battery.
16 Q No battery in the car?
17 A Yes.
18 Q And how long did you and Tom work with that
19 vehicle before abandoning an attempt to take it?
20 A Maybe ten minutes.
21 Q Then where did you go?
22 A Back to the car that we came in.
23 Q The '56 Buick?
24 A The car the men was shot in.
25 Q All right. And where was it parked?

1 A. It was parked at a place like a garage where you
2 get your car fixed.
3 Q. On the main --
4 A. On the side.
5 Q. Pardon?
6 A. I think it was -- I'm not sure if it was on the
7 main street, but that's where -- I don't know.
8 Q. Would you keep your voice up so I can hear.
9 A. It was a place, I think it was a garage or
10 someplace to get cars fixed. I don't know.
11 Q. Do you recall whether it was on the main street
12 or not?
13 A. No.
14 Q. Then where did you go?
15 A. We went on down the road. We stopped, Tom was
16 tired. He wanted to sleep.
17 Q. All right. Now, just before we get to that point,
18 how long were you in Cascade, Idaho, altogether?
19 A. I don't -- maybe a half hour, maybe longer. I
20 don't know.
21 Q. Did you see any of the business establishments
22 that were open at that time?
23 A. No.
24 Q. Did either you or Tom go into any of them?
25 A. No.

1 Q Did you examine your clothing at that time to
2 determine whether or not you had any blood on your clothing?
3 A I was trying not to get blood on myself.
4 Q You were trying not to?
5 A But, I couldn't help it.
6 Q What were you doing to try to prevent that?
7 A I was sort of sitting on my seat with my feet up
8 on the seat under me and without sitting on the seat, sitting
9 on my feet on the front seat.
10 Q All right. And then where did you go?
11 A We drove -- we pulled in at a place -- there was
12 a building and we pulled in there so Tom could sleep. He was
13 tired, he needed to rest.
14 Q Do you know how long you drove after you left
15 Cascade?
16 A No. We pulled in and he didn't rest there. We
17 moved on.
18 Q At this time did you and Tom have any conversation
19 about the events that had taken place there at Donnelly?
20 A I asked him why, why he did it. I don't think he
21 really told me.
22 Q I'm sorry, I can't hear you.
23 A I asked him why he did it and I don't think he
24 told me. I don't know.
25 Q And what did he tell you?

1 A I don't think he told me anything. I don't know.
2 Q And how long did you stay there by that shed for Tom
3 to get some rest?
4 A Only a couple minutes. We went somewhere else for
5 Tom to get some rest.
6 Q How far away?
7 A It was a lodge, a lodge place on the side, across
8 the street. We parked among the other cars there and he rested.
9 Q Did he go to sleep?
10 A I don't know.
11 Q Did you go to sleep?
12 A No.
13 Q How long were you there?
14 A I don't know.
15 Q Was it a cold night?
16 A Yes.
17 Q Did he leave the engine running?
18 A Yes.
19 Q And the heater?
20 A Yes.
21 Q This car had plywood in the window on the
22 right-front door; didn't it? Or did it?
23 A I don't know. I don't remember.
24 Q Was it daylight before you left that position where
25 you had parked among the cars?

1 A. I don't know.
2 Q. Do you drive an automobile?
3 A. No.
4 Q. Have you ever been licensed to drive an automobile?
5 A. No.
6 Q. Have you ever had any driver's training at all?
7 A. No.
8 MR. REMAKLUS: Object on the grounds -- well, she's
9 already answered.
10 THE COURT: The answer is in. It may stand.
11 MR. REMAKLUS: Yes.
12 THE COURT: We'll take a ten-minute recess.
13 If you'll remember the admonition, ladies and
14 gentlemen, don't discuss the case and keep your minds open.
15 (Recess taken.)
16 (Jurors re-entered the courtroom.)
17 THE COURT: Show the jurors are all present.
18 MR. ROBINSON: May I continue, Your Honor?
19 THE COURT: Yes.
20 Q. BY MR. ROBINSON: Miss Spaulding, was there an
21 attempt to push this 1956 vehicle into the river where it ran
22 out of gas?
23 A. I believe so.
24 Q. How long was it before you and Tom caught a ride
25 after leaving that '56 Buick?

1 A. I don't know.

2 Q. Would you describe the people that you caught a
3 ride from?

4 MR. REMAKLUS: I think this is, probably, going outside
5 the scope of the direct examination, Your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: I believe it was a woman and a child in a
8 small car.

9 Q. BY MR. ROBINSON: Small car? Was there just one
10 ride that you had to go on south there to Boise?

11 A. No.

12 Q. Did you have more than one ride?

13 A. Two.

14 Q. And would you describe the second person, or
15 people, that gave you and Tom a ride?

16 A. I believe it was a young man.

17 Q. A young man?

18 A. (No audible response.)

19 Q. Prior to the killings that you've described at
20 Donnelly, Idaho, had Wayne Bradford urinated in the back of
21 that Buick?

22 A. Yes.

23 Q. How many different occasions?

24 A. I don't know.

25 Q. Was it several times?

1 A. I don't remember.

2 Q Did you describe to the officers in Mountain Home,
3 Idaho when you talked with them on the 8th day of November,
4 1974 how that car smelled?

5 A. I don't know.

6 Q Do you recall that you stated the car smelled like
7 dog manure?

8 A. I don't know.

9 Q In other words, what you are saying, you can't
10 remember?

11 A. Yeah. It smelled like that, though.

12 Q It did?

13 A. Yes. But, I don't recall saying anything about it.
14 I don't recall saying anything about it at that time.

15 Q Have you been Dan's old lady?

16 MR. BOYD: Refuse to answer.

17 MR. REMAKLUS: I'm going to renew the same objection,
18 Your Honor.

19 THE COURT: Sustained. I will grant the privilege.

20 Q BY MR. ROBINSON: Is Dan the father of
21 Benjamin Allen Spaulding?

22 MR. BOYD: Refuse to answer.

23 MR. REMAKLUS: I would object again on the basis of
24 outside the scope of direct examination, improper cross.

25 THE COURT: Sustained and I'll grant the privilege.

1 Q BY MR. ROBINSON: Did you and Tom arrive in
2 Lewiston from Kentucky?

3 MR. BOYD: Refuse to answer.

4 THE COURT: I'll grant the privilege.

5 THE WITNESS: Thank you.

6 Q BY MR. ROBINSON: Miss Spaulding, do you recall a
7 Gremlin automobile that was ditched by you and Tom prior to
8 going on into Lewiston?

9 MR. BOYD: Refuse to answer. You'll have to speak up,
10 Miss Spaulding, if you want to claim the privilege.

11 MR. REMAKLUS: I would enter the same objection.

12 THE WITNESS: I refuse to answer.

13 THE COURT: Just say you refuse. Yes, I'll grant the
14 privilege.

15 Q BY MR. ROBINSON: Have you been tattooed?

16 MR. REMAKLUS: This is -- I would object to it as beyond
17 the scope of the direct examination, Your Honor.

18 THE COURT: Sustained.

19 Q BY MR. ROBINSON: Are you a member of the Satanic
20 Cult?

21 MR. BOYD: Refuse to answer.

22 MR. REMAKLUS: I would object to that as being beyond
23 the scope of the direct examination.

24 THE COURT: Sustained and I will grant the privilege, if
25 you want to claim it.

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THE WITNESS: Thank you.

THE COURT: Do you refuse?

THE WITNESS: Yes.

Q BY MR. ROBINSON: Have you ever been to the
McCoy Ranch --

MR. BOYD: Refuse to answer.

Q BY MR. ROBINSON: -- in Southern California?

MR. BOYD: Refuse to answer.

MR. REMAKLUS: And I would make the same objection,
Your Honor.

THE COURT: Objection sustained and I will grant the
privilege.

THE WITNESS: Thank you.

MR. ROBINSON: Your Honor, at this time I would conclude
my cross-examination and request the Court to -- on the
condition and request the Court to instruct Miss Spaulding to
hold herself available for the defense case.

THE COURT: Any redirect?

MR. REMAKLUS: Yes, thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. REMAKLUS:

3 Q Miss Spaulding, down at Mountain Home or
4 Glenns Ferry, Idaho, why did you tell the officers that
5 Bradford had a knife at Tom Creech's throat?

6 A. Because Mr. Creech had told me to.

7 MR. REMAKLUS: I have no further questions.
8

9 RECROSS EXAMINATION

10 BY MR. ROBINSON:

11 Q Miss Spaulding, when did Tom Creech tell you to
12 say that?

13 A. I don't remember when.

14 Q Was there a conversation between the 4th day of
15 November, 1974 and the date that you were arrested,
16 November the 8th, 1974, between yourself and Tom when this
17 story about how the killings took place was conducted and put
18 together?

19 A. Could you repeat that?

20 Q Was there a conversation between you and Tom to
21 put the stories, yours and his stories together about how the
22 killings of Arnold and Bradford occurred?

23 A. I don't know.

24 Q Pardon?

25 A. I don't know. Tom had told the man that was letting

1 us stay at his house about what had happened.

2 Q Jim Marsh?

3 MR. BOYD: Refuse to answer.

4 I'm having trouble, Your Honor, about the sequence
5 and so forth.

6 THE COURT: Well, I'm going to let her answer that
7 question because I don't think it's identified as to place, just
8 a person. So, I don't think that incriminates her. Go ahead.

9 MR. REMAKLUS: This is beyond the scope of direct
10 examination. I would object on that ground.

11 THE COURT: Overruled. The question is just whether that
12 person was Jim Marsh.

13 THE WITNESS: I believe so.

14 Q BY MR. ROBINSON: Well, to make sure, was it that
15 person that -- whose wife had the baby?

16 A Yes.

17 Q About the 5th day of November?

18 A Yes.

19 Q So, what you are saying is that Tom told Jim Marsh
20 about the circumstances and you heard it and picked it up and
21 repeated what he said?

22 A Yes.

23 Q Did Tom ever tell you specifically to say anything?

24 A I think so.

25 Q When?

1 A. From -- on the trip from Glenns Ferry to
2 Mountain Home, I believe.

3 Q. In other words, the two of you made up a story
4 during that ride in the police car?

5 A. No.

6 Q. No what?

7 A. No, we didn't.

8 Q. No, you didn't make up a story?

9 A. No.

10 Q. Just part of it?

11 A. I don't know.

12 Q. Pardon?

13 A. I can't -- I'm not sure that was at the time when
14 he had brought that up. But, I know -- I don't remember when,
15 exactly when, but I don't think we made up a whole story.

16 MR. ROBINSON: I'll hold at this point, Your Honor, for
17 further cross-examination and bring Miss Spaulding back.

18 THE COURT: I guess you may step down.

19 MR. REMAKLUS: I do have one thing, Your Honor.

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1 FURTHER REDIRECT EXAMINATION

2 BY MR. REMAKLUS:

3 Q Did you say that it was -- the best to your
4 recollection that Tom told you to say that the knife was -- that
5 Bradford held the knife at his throat when you were coming back
6 from Glenns Ferry to Mountain Home that night?

7 MR. ROBINSON: Object, leading and suggestive, Your Honor.

8 THE COURT: Sustained.

9 MR. REMAKLUS: I have no further questions.

10 MR. ROBINSON: Nothing further.

11 THE COURT: You may step down.

12 Yes, I'll direct that this witness be held
13 available for the defense to call. You may step down.

14 Call your next witness.

15 MR. REMAKLUS: I think we have some offers of proof,
16 Your Honor, to be made in the absence of the jury.

17 THE COURT: All right, we'll take this up out of your
18 presence, ladies and gentlemen. If you remember the admonition,
19 don't discuss the case and keep your minds open.

20 (Jurors left the courtroom.)

21 THE COURT: I'll hear what you have to say.

22 MR. THOMAS: Thank you, Your Honor. The first offer that
23 we would like to present relates to the name of Joe Carl Adams
24 if it is recalled by the Court that Mr. Adams' name was listed
25 as an alias of the defendant in the information, also been

1 recalled that Mr. Adams' identification was in Mr. Creech's
2 possession and the police officer initially believed that
3 Mr. Adams -- rather that the defendant was Mr. Adams. We would,
4 therefore, offer to prove that the defendant, Thomas Eugene Creech,
5 between the time of the crime charged in this case and the time
6 of the defendant's arrest, entered a 7-Eleven store in Boise,
7 Idaho and robbed, at gunpoint, Joe Carl Adams of his
8 identification and that that was the same identification that
9 Mr. Creech produced upon being arrested.

10 I believe that this offer of proof is supported by
11 the recent case decision of the Idaho Supreme Court in the
12 State versus Izatt, relating to the right to put on evidence
13 showing all of the circumstances relating to the crime, even
14 though it does involve a description of other crimes.

15 The Supreme Court of Idaho in that opinion also
16 referred to the case of Monge versus People decided by the
17 Colorado Supreme Court. We also refer the Court to the case of
18 People versus Archerd; which was cited in our pretrial brief.

19 We also offer at this time to present the testimony
20 of Gene and Becky Hilby to the effect that the defendant,
21 Thomas Eugene Creech, committed a murder in Portland, Oregon;
22 that after doing so -- rather, before doing so and as a pretext
23 for doing so, he advised Mr. Hilby that he had been threatened
24 and attacked at knifepoint; that he committed a murder in
25 Salem, Oregon, and returned from that telling Mrs. Hilby that

1 he had had to commit a killing in consequence of being attacked
2 at knifepoint and all pertinent details relating to those
3 matters.

4 We believe that the circumstances of those two
5 crimes are identical to the circumstances which have been raised
6 in the defendant's cross-examination here to this point which --
7 during which he has attempted to suggest that the victims of this
8 crime were in the process of making an attack with the knife
9 upon him at the time.

10 We pose to rebut that by showing the circumstances
11 of the Portland and Salem murders. We believe that we are
12 supported in this offer by the cases cited in our pretrial brief
13 on the subject and that defendant has opened these matters up
14 for presentation at this time.

15 I would again call the Court's attention to the case
16 of State versus -- or, rather, Mullaney versus Wilbur cited by
17 the Supreme Court of the United States in which it is clear that
18 the burden of proving the absence of justification, the absence
19 of circumstances creating a lesser degree of the offense falls
20 upon the State.

21 We call attention also to a comment in the case of
22 People versus Archerd in which the Supreme Court of California
23 holds that it isn't necessary for the State to wait for rebuttal
24 to put in relevant evidence of this kind.

25 THE COURT: Do you have an objection?

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MR. ROBINSON: Yes, Your Honor.

First of all, in the Adams identification, the fact that evidence would point to commission of other crimes would, in this instance, be prejudicial as I'm sure the Court is aware and is very concerned with.

THE COURT: Yes, I'll sustain the objection.

MR. ROBINSON: The objection that we have, then, on the Portland circumstances is that the State's case in chief at this point has a witness in Carol Spaulding that says this didn't occur. And the proper place would, then, be in rebuttal for any of this evidence on the Portland circumstance to come to light.

THE COURT: Yes, I'll sustain the objection.

MR. ROBINSON: Thank you, sir.

MR. REMAKLUS: State rests, Your Honor.

THE COURT: I take it you'd prefer to proceed in the morning, Mr. Robinson?

MR. ROBINSON: Yes, Your Honor. But I believe that we're going to need to talk with the Court on the record in that regard to the extent of testimony that we will be allowed to go into on the defense so that I can prepare my opening statement.

THE COURT: Prepared to take that up now?

MR. ROBINSON: Yes, sir.

THE COURT: All right, go ahead.

I take it you still wouldn't want to proceed tonight?

1 MR. ROBINSON: That's correct, Your Honor, and possibly
2 the Court wants to dismiss the jury.

3 THE COURT: We can let the jury go?

4 MR. REMAKLUS: Yes.

5 THE COURT: You don't want to make your opening
6 statement tonight or anything?

7 MR. ROBINSON: I will commence with that in the morning.

8 THE COURT: All right, bring the jury in then.

9 You can make your own statement that you are
10 resting in the presence of the jury, then.

11 MR. REMAKLUS: Yes, Your Honor.

12 (Jury re-entered the courtroom.)

13 THE COURT: All right, show the jurors are all present.

14 You may call your next witness.

15 MR. REMAKLUS: Your Honor, the State rests.

16 THE COURT: Are you prepared to commence at this time,
17 Mr. Robinson?

18 MR. ROBINSON: No, I'm not, Your Honor. I would rather
19 commence with an opening statement at the start of the session
20 tomorrow morning but I do have matters I'd like to consider
21 before the Court this evening out of the presence of the jury.

22 THE COURT: All right, we'll take our evening recess,
23 then, as far as the jury is concerned until 9:30 tomorrow
24 morning.

25 If you will remember the admonition, don't discuss

1 the case and keep your minds open.

2 (Jury left the courtroom.)

3 THE COURT: All right, Mr. Robinson, I'll hear anything
4 you have to present.

5 MR. ROBINSON: First of all, for the purpose of the
6 record, Your Honor, I make the motion of dismissal for failure
7 of proof without argument, Your Honor.

8 THE COURT: Motion will be denied.

9 MR. ROBINSON: Your Honor, you have listened to argument
10 of Counsel on several occasions in Boise and here on the
11 Motions in Limine.

12 I believe that both Counsel and the Court are
13 acutely aware of the intent of the defense in this matter to
14 make a total disclosure of the life of Tom Creech; based upon
15 the legal defenses of mental defect and disease and further
16 based upon the reasons in his life, if any there are, that he
17 comes to the point of November 8th, 1974, and makes a voluntary
18 statement of a double murder that he did not commit.

19 In this proof the testimony will first commence
20 with that of Thomas Eugene Creech himself giving his entire
21 background and commencing with the first death that he was
22 involved with in 1966 and commencing through his life as to the
23 involvement that he had with the bikers' organizations, with
24 the Satanic Cult, with his incarceration in the Ohio Reformatory
25 and prisons and the Ohio mental institutions and from that to

1 his father's death; the impact that these circumstances had upon
2 his life, of the family breakdown et cetera and his becoming
3 involved in national drug traffic and becoming a contract hit
4 man, or executioner for the bikers' organization, National
5 Council.

6 That involved -- he, as a member of the Outlaw
7 bikers' club of Ohio, the Hell's Angels and Machakos, the
8 Banditos, the Sundowners and all others; including Gypsy Jokers
9 and how the measure of these activities caused him to continue
10 that way of life as an assassin into the number of deaths that
11 he was involved in and the compulsion of the organization
12 itself that if he did not continue and follow their orders he
13 himself would be put away.

14 His attempt to break loose from that entire syndrome
15 of life, get himself captured and find security in law
16 enforcement incarceration because he then had contracts on his
17 own life from several sources; all continually aimed at both
18 the involvement in the Satanic Cult and the involvement in the
19 national drug ring with all of the different actors that were
20 a part thereof that compelled him in his own separate battle to
21 take unto himself other killings other than those that were
22 handed down as instructions, or commands from Council and, also,
23 his own war on the dope pushers and forcible rapists that
24 resulted, out of the women in his life, who had been forcibly
25 raped.

1 All bringing itself to the point that he made the
2 voluntary statement that had been introduced in evidence here
3 against him to save the other person or persons who actually did
4 the killings in the Arnold-Bradford matter here in the State of
5 Idaho.

6 This is the intent of the defense on the full
7 disclosure and under the Motion in Limine that the Court has
8 denied, but with reservation that the Court would hear all
9 argument prior to the time we commenced giving testimony to this
10 jury.

11 I feel, Your Honor, that all of the testimony of
12 Thomas Eugene Creech in that regard is important to his defense,
13 is a need and a necessity of his defense to combat the
14 accusations, testimony and proof that have been submitted by the
15 State.

16 THE COURT: I'm not sure what the Court is supposed to
17 rule on. I take it what you want is some guidance on arranging
18 your evidence and what evidence will be permitted to be
19 presented; is that what you are seeking, Mr. Robinson?

20 MR. ROBINSON: Yes, Your Honor. At this point I felt
21 somewhat restricted by the Court's previous rulings and wanted
22 to put, at this time, after the resting of the State's case in
23 chief, the intent on the part of the defense to make a full
24 disclosure and go in detail into the entire life of Tom Creech
25 so that this jury would have all of that information and that

1 testimony before them; in order to weigh the evidence that they
2 now have before them in the State's case.

3 THE COURT: Then the outline of what you intend to
4 present here, I haven't detected anything of any expert witnesses
5 to prove anything about the Satanism or Satanic Cults or
6 anything like that, is that right?

7 MR. ROBINSON: Your Honor, I was going to go at this
8 step by step and after the entire -- it has been my understanding
9 up to this point that the Court was going to allow the, if you
10 will, testimony on the subject matters as being relevant and
11 material when testified to by Tom Creech himself but that there
12 is still a restriction in the Motion in Limine as to bringing
13 on expert testimony; such as the Bishop of the Catholic Church,
14 of the Bishop of the Episcopal Church, Anton Szandor LaVey, the
15 "Black Pope" of the Satanic Church in San Francisco and others
16 to prove that this actually does exist.

17 Now, I intended to make offers of proof after the
18 Court had heard Tom Creech's testimony, as to how far the
19 Court felt that we were justified in going in that regard.

20 But, I was -- I could anticipate that that expert
21 testimony will be called upon to be given but I know that I must
22 satisfy the Court prior to calling those witnesses as to their
23 materiality, relevancy, prior to exposing these witnesses to
24 this jury.

25 I also, of course, Your Honor, intend to introduce

1 all of the testimony of Dr. F. LaMarr Heyrend, psychiatrist,
2 on his many examinations of Thomas Eugene Creech that he has
3 made under the Sodium Ametol, Ridelene, hypnotic sessions and
4 polygraph done by the State and all of those done by the
5 State and, then, further supplemented by our own polygraph
6 sessions. Those, of course, would be submitted to the Court
7 in offers of proof prior to actually producing the witnesses.

8 I do anticipate the direction that the defense will
9 take also is that after this full disclosure is made by
10 Thomas Eugene Creech that those witnesses that we have reserved
11 and request the Court the permission to recall in the defense
12 case would be to establish and verify particular crimes,
13 killings, bodies discovered, those things that actually are
14 facts that these officers have individual, personal knowledge
15 of.

16 THE COURT: Well, I intend to adhere to my initial
17 observations, Mr. Robinson. I don't intend to let any evidence
18 in in this case, by either side, that isn't relevant to either
19 the prosecution or some legitimate defense that's recognized as
20 a matter of law.

21 I recall that I did give the opinion at one point
22 that I did not think expert testimony about cults and things
23 was going to be relevant to any recognized defense unless you
24 could come up with a case that indicated it was; or that could
25 represent that one of your psychiatrists would recognize this as

1 being a recognizable mental disease and defect. I don't
2 understand you've done that at this point.

3 I did, I think, recognize that I felt you would be
4 able to go rather broadly into the background of Mr. Creech in
5 support of your mental disease and defect defense as a
6 foundation for expert testimony by psychiatrists, not by
7 experts on demonologies or Satanism.

8 MR. ROBINSON: That's my understanding, Your Honor. Of
9 course, now, we do -- and are confronted with the other matter
10 and that is a voluntary statement given about the killings of
11 Arnold and Bradford which the defendant denies that he committed
12 and the jury must be -- must understand the totality of Tom's
13 life and his reasons for having given a voluntary statement
14 when, in fact, it wasn't true.

15 THE COURT: Well, I'm concerned about this -- I
16 interpret what you said as, perhaps, being a defense that he
17 acted under some compulsion and I'm inclined to believe that
18 isn't a defense.

19 Section 18-201 defines "Persons capable of
20 committing crimes."

21 In Subdivision 8 talks about persons who act under
22 compulsion and it says, "Persons (unless the -- ". These are
23 the exceptions, it says, "Persons (unless the crime be
24 punishable with death) who committed the act or made the
25 omission charged, under threats or menaces sufficient to show

1 that they had reasonable cause to and did believe their lives
2 would be endangered if they refused."

3 Now, under that statute that -- that you felt your
4 life was endangered would be a -- as I interpret this, a defense
5 to any crime except murder and it would not be a defense to the
6 crime of murder.

7 MR. ROBINSON: But I'm not offering the defense of
8 compulsion in the Idaho deaths of Arnold and Bradford because the
9 position is that Tom Creech did not commit those two killings
10 but that he was involved in other killings under orders and
11 that was compulsion that kept him within the organization until
12 he made the break; as an explanation as to why he gave a
13 voluntary statement admitting to two killings he did not
14 actually commit.

15 THE COURT: Well, I'll hear what the State has to
16 present on this.

17 MR. THOMAS: It's our position, Your Honor, that the
18 defendant, even with respect to Mr. Creech's testimony, should
19 be required to submit offers of proof on all of the details of
20 it if he's going to go into this.

21 On the basis of the materials that we have, we
22 understand that that testimony might contemplate such things as
23 the character assassination of a large number of innocent people
24 on the public record. I'm sure the Court has been furnished
25 with a copy of the -- some of the materials that would tend to

1 indicate that.

2 Furthermore, the problem arises that some of the
3 material that it would seem, at least on the basis of the
4 disclosures made by the defendant during the course of
5 discovery, would involve testimony as to purported facts which
6 are demonstrably untrue because they've been already refuted.

7 I think the procedure advocated by the defense
8 counsel is a very dangerous one. It proposes that he be
9 allowed to get into an improper defense, bit by bit, starting
10 out with an opening statement which then opens the door to
11 Mr. Creech testifying to a large number of things; that we
12 would have to sit over here and attempt to object to on the
13 piece by piece basis, probably antagonizing the jury in the
14 process and then moving on to such people as the authority of
15 the Satanic Bible who is not shown by anything that
16 Mr. Robinson has even said, to know anything about this case or
17 to have any evidence in it. The same is true of the clergymen
18 who have appeared on his list, the witness list.

19 All of this material seems to us, at least on the
20 face of it, and I think this was the sense of the Court's
21 earlier ruling on the Motions in Limine, irrelevant and not
22 to be presented without some very specific showing of what
23 possible relevance it has and that is so because of the
24 extremely prejudicial and confusing effect, putting this mass
25 of irrelevant material before the jury. If the defense is to

1 be made in this way, it should be made by some kind of
2 specific showing of just what is involved, instead of the
3 defendant's counsel merely advising the Court that the defense
4 amounts to a total disclosure coupled with the claim that
5 Mr. Creech really didn't commit the killings.

6 MR. ROBINSON: If it please the Court, my opposing
7 counsel uses strange words about this has been refuted. Maybe
8 in his own mind because he chooses to believe other materials,
9 the direct terminology controverted, maybe.

10 Of course this jury has a right to hear from both
11 sides. It would seem to me I have tried to, throughout my
12 representation in this case, to demonstrate to the Court that
13 I was not representing and making an assertion, or calling down
14 on the defense of this matter irresponsibly. Now there may
15 very well be some very high officials identified and there
16 character impuned, but an assassination? No. This Court
17 knows, I hope that I have been very careful in checking out
18 in detail both with Dr. Heyrend and with the polygraph and I
19 have advised the Court at each time these have been completed
20 of the consistency between the Sodium Ametol, Ridelene of
21 Dr. Heyrend and the polygraph.

22 I realize the Court has stated that it interprets,
23 at least one session of the polygraph differently than defense
24 counsel does. I assure the Court that I am not, as an officer
25 of this court, behaving irresponsibly. I feel that my

1 representation calls for me to afford this defendant an
2 opportunity to tell his full story for his defense. I realize
3 this State would rather that the defense in this case amount
4 to no more than Mr. Creech getting on the stand, taking the
5 oath and say "I didn't do it" stepping down, "Defense rests".
6 But, this cannot be done.

7 It takes all of the details in order for the
8 defense to be fully disclosed, to be in the minds of this
9 jury that has the responsibility to make a determination of
10 the guilt or innocence of Thomas Eugene Creech. In the charge
11 before them, the murder of Arnold and Bradford, as to whether
12 or not those killings, if their decision is that he did them,
13 amounted to First Degree, Second Degree or any of the degrees
14 of homicide thereunder or to actually acquit him should they
15 believe that a person or persons other than Thomas Creech
16 actually killed Arnold and Bradford.

17 And in order to afford the defense to Mr. Creech,
18 I must go to the entire explanation of his total background,
19 his life and his involvements.

20 THE COURT: Mr. Robinson, if I haven't missed
21 something you've only, really, in all you've said, given two
22 basic theories of why all this would be relevant.

23 You've mentioned the mental disease and defect
24 defense and you've mentioned Mr. Creech explaining why he gave
25 this statement that's now in evidence.

1 Number one, I would not allow all this material
2 you are talking about now in as being relevant to the mental
3 disease and defect defense unless you represent to the Court,
4 number one, that you have a psychiatrist that will come forth
5 and say he is suffering from a mental disease and defect and
6 that this material is part of the foundation upon which that
7 psychiatrist reaches that conclusion.

8 Now, that has to do with the mental disease and
9 defect defense. I frankly have a hard time seeing why we have
10 to have all this massive detail you apparently want to go into
11 to attack the credibility of the one voluntary statement that
12 "Voluntary Statement" that we have in evidence right now.

13 Seems to me that could be attacked by Mr. Creech
14 in rather brief testimony without giving all this elaboration
15 that you are talking about.

16 I'm willing to hear you on that, but these are the
17 only two theories that I understand that any of this will even
18 be relevant to this case.

19 MR. ROBINSON: Well, I assure the Court that the basic
20 testimony regarding the mental defect and disease that will
21 be testified to by Dr. Heyrend is necessary to lay the total
22 foundation as to what occurred in Tom's life to cause this
23 possession of his giving up his soul after baptism and joining
24 a cult that has had tremendous impact and control upon him.

25 Now, he must give that explanation himself as the

1 foundation to this psychiatrist.

2 THE COURT: I'm not sure, in those terms, the
3 psychiatrist will even be permitted to express an opinion,
4 Mr. Robinson. I intend to limit that psychiatrist expressing
5 an opinion based upon our Idaho Statute defining mental
6 disease and defect and I don't understand that mental disease
7 and defect defense, as Idaho has adopted, in the defining of
8 it to include some compulsion caused by Satan and I'm going to
9 so rule.

10 MR. ROBINSON: All right.

11 THE COURT: And I'd be surprised if you have a
12 psychiatrist that would purport to make a statement that a
13 mental disease and defect exists based on that ground. If you
14 do I want to hear his testimony before we go into all this
15 other matter.

16 MR. ROBINSON: I would assure the Court that I would be
17 putting in testimony of Dr. Heyrend on for the Court to judge
18 as to whether or not the findings that were made three weeks
19 ago actually met the Court's test in that regard.

20 Your Honor, I do feel that the entire amount of
21 detail is necessary in order to enlighten the Court and the
22 jury as to the total effect of each of the circumstances as
23 they came down in Tom's life, sequentially, that brought him
24 to the point where he made this confession on the 8th day of
25 November, 1974. To me all things have to have a reason behind

1 them and

2 THE COURT: Well, I think your order of proof to do that
3 is going to have to be reversed from what you propose here.
4 I'm just simply not going to permit that passive detail to be
5 presented here on the assumption that we're going to get a
6 psychiatrist coming along later on that will say all of this
7 is relevant to his conclusions.

8 MR. ROBINSON: And since the State rested one day
9 prematurely than I was advised that more than likely would, I
10 do not have Dr. Heyrend available until the first part of next
11 week. As a matter of fact, I have a prearrangement to meet
12 him over the weekend.

13 THE COURT: Is he the only other witness you have?

14 MR. ROBINSON: For the Court to go into the aspect of
15 whether or not the defendant will be able to testify about his
16 life's involvement that wound up and caused him to being a
17 member of the Satanic Cult, yes. My order of proof was going
18 to be the defendant himself and, then, the officers that
19 accompanied him into the various other states for the recovery
20 of bodies for the investigation of other crimes he alleged that
21 he had been involved in; the verification of that. Then, the
22 -- based upon that the psychiatric testimony of Dr. Heyrend.
23 Then, on that basis in the event that the Court saw then that
24 the proof had amounted totally to the need and necessity and
25 the properness of the testimony of either of the Bishops, or

1 the Satanic Cult then to make its ruling based upon that
2 foundation.

3 THE COURT: I would just make the observation, it seems
4 to me you are embarking upon an extremely, and I make this for
5 the record, that you are embarking upon an extremely hazardous
6 and dangerous course of action in this case because, if you
7 present all of this highly prejudicial material in your own
8 case to the jury and, then, the ruling is that it is not
9 relevant and material and the psychiatrist is not permitted to
10 give his opinion based on that kind of material, it seems to
11 me you will have prejudiced your client highly without
12 accomplishing anything in the defense.

13 MR. ROBINSON: I realized that for months, Your Honor,
14 and in the investigation of this case that was all formulated
15 prior to my coming onto this case, as counsel with the
16 manuscript in his own handwriting dated the 8th day of March,
17 1975 admitting to the other out-of-state involvements; with
18 the many other out-of-state involvements, bodies having been
19 recovered and those circumstances amounting to a greater
20 First Degree Murder under their laws and those states that
21 the defendant would continually, after this case, if there
22 isn't a finding of First Degree would, somewhere down the line,
23 run into a case that is going to be First Degree and he would
24 be executed.

25 THE COURT: Well, I want to advise the defendant right

1 now in open court that the testimony he gives in this case
2 will not be privileged, will not -- he will not be protected
3 against self-incrimination in other jurisdictions and that
4 testimony can be used against him in other jurisdictions --

5 MR. ROBINSON: I am sure --

6 THE COURT: -- and I'm advising the defendant directly
7 of that, not through you.

8 MR. ROBINSON: And I appreciate the Court doing so,
9 Your Honor. I have stated these same things to Mr. Creech.
10 We have gone over the totality of all of the information that
11 he has given and I'm sure that the Court is aware that all of
12 the activities of further investigations out of state were
13 absolutely stopped when I came on this case as counsel and I
14 believe at one point that I did make the comments to the
15 Court that I have not changed the facts of this case as I found
16 them when I first came on the case one way or the other.

17 I have tried to understand them, interpret them,
18 investigate them and verify them. I felt that I did come on
19 this case, that it was -- had its course and its direction.
20 I believe I likened that to the barge midstream in the Salmon
21 River where I was given the tiller and asked to turn it back
22 around; which would have been an impossible task.

23 I'm sure the Court knows attempting to represent
24 Thomas Eugene Creech in the condition I found this matter as of
25 the 6th day of June, 1975 at the commencement of my

1 representation.

2 I feel that it is my duty as an attorney to
3 represent Tom Creech and attempt to save his life in this
4 jurisdiction and in all other jurisdictions that he has his
5 involvement and bring out the truth of the whole matter.

6 THE COURT: Well, I haven't resolved, in my own mind,
7 however, Mr. Creech can go in his own testimony. I have
8 resolved that you will not be permitted in this case to put on
9 any purported expert witnesses on Satanism or demonology and
10 you can make all the offers of proof you want, but I'm not
11 going to permit such testimony in this record.

12 MR. ROBINSON: That's understandable, Your Honor.

13 THE COURT: But I don't think it's relevant or
14 material, under any principle of law that I'm familiar with,
15 to present any defense in a murder case.

16 MR. ROBINSON: I would like to add one other thing to
17 the record if I might, Your Honor.

18 In my experience I have never been involved in a
19 case like the State versus Thomas Eugene Creech. It seems to
20 me like every known activity of counsel in representing a
21 client has, in this case, been over 180 degrees; that all of
22 the things that we, as counsel, are called upon to do in
23 representation in this matter, has directly opposite and I am
24 having to weigh each and every and have had to weigh each and
25 every item and material as I find it in light of my experience

1 and in light of our law as I understand it and, as I'm sure
2 that this Court understands it.

3 I assure the Court that in abiding by our law and
4 our rules that I am not in any way, shape or form attempting
5 to make a spectacular thing out of the defense. I truly
6 believe that this is the only defense that Tom Creech has at
7 his disposal and that is a total disclosure to explain his
8 position as a -- they relate to these two deaths.

9 THE COURT: Well, all I can advise you, Mr. Robinson,
10 at this point, is that I intend to permit Mr. Creech to put on
11 any relevant and material testimony to his defense of mental
12 disease and defect, his defense of denial of the commission
13 of these acts and his explanation of the purported voluntary
14 statement that's been introduced into evidence by the State.

15 However, in ruling on the admission -- relevancy
16 and materiality question on that evidence, I'm going to feel
17 bound by established rules of law and the law defining
18 relevancy and materiality in that context. I'm going to make
19 my rulings accordingly and I am not going to state to you at
20 this time that under these rulings that you are going to be
21 permitted to prove all the things that you've represented that
22 you want to prove.

23 I don't think that particularly helps you, but I
24 don't know anything else I can do on this preliminary discussion;
25 other than to advise you and, then, rule on the issues as they

1 arise.

2 MR. ROBINSON: And, Your Honor, I will attempt to
3 prepare my opening statement in a restricted way so as not to
4 make promises where the area might be questionable and in
5 anticipation of the Court's expected rulings on the admissibility
6 of particular evidence.

7 THE COURT: All right.

8 MR. ROBINSON: Thank you very much.

9 MR. THOMAS: Your Honor? Some of the representations
10 of Mr. Robinson has had, with respect to Dr. Heyrend's
11 testimony, we do wish to advise the Court that if Dr. Heyrend
12 testifies as Mr. Robinson suggests, it will be surprise to us
13 because the reports submitted to us, which I would like to
14 submit to the Court at this point, since the Court did order
15 the examination.

16 THE COURT: If he testifies in accordance with
17 Mr. Robinson's feelings, he will be subject to impeachment
18 with that statement.

19 MR. THOMAS: I would think to some extent except the
20 principal defect is that the statement does not conform to the
21 order of the Court in the expression of the opinion of the
22 defendant's sanity at the time of the offense. It seems there's
23 no reference to that. So, it would appear that if Dr. Heyrend
24 expands upon his testimony he will be putting something in
25 that isn't covered at all in this report.

1 We do not contemplate looking upon --

2 THE COURT: Do you have any other reports from him,
3 Mr. Robinson, that haven't been revealed pursuant to
4 discovery orders here?

5 Is this the only report you have too?

6 MR. ROBINSON: That's correct, Your Honor. As the
7 Court recalls earlier last week when the report was transported
8 up by the State of Idaho, I got my copy at the same time
9 Mr. Thomas did. I would state to the Court --

10 THE COURT: I'd like to see that report.

11 (Brief delay.)

12 MR. ROBINSON: Your Honor, in a conversation I had
13 with Dr. Heyrend after receiving this report, he did state to
14 me that there was just one area that he failed to cover in
15 that report and that was in regards to the military portion of
16 Tom Creech's life, the circumstances of many AWOL's and what
17 took place as they added to his total opinion.

18 That's the only area, the one area that I would
19 like to advise the Court that the last ordered examination by
20 this Court of Dr. Heyrend at the request of the State took
21 place. I believe it was September 25th and 26th. At both of
22 those sessions, in attendance besides Tom Creech, Dr. Heyrend,
23 were John Wickersham, my investigator, Sheriff Palmer and
24 myself and we were there on both days during the entire
25 examination by Tom Creech -- of Tom Creech by Dr. Heyrend under

1 the use of Sodium Ametol and Ridelene.

2 THE COURT: We'll be in recess until tomorrow morning
3 at 9:30.

4 (Recess taken.)
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1 WALLACE, IDAHO, THURSDAY, OCTOBER 16, 1975, 9:30 A.M.

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4 THE COURT: I wish to take up one additional matter
5 with Counsel before we commence with the jury in view of
6 Counsel's -- Defense Counsel's request for some guidance as
7 to the law in the case on this matter.

8 Additional reflection, I think requires that I
9 point out three additional things so that the defendant will
10 not be surprised or claim surprise by virtue of the Court's
11 rulings.

12 Number one, I would point out that under the mental
13 disease and defect defense, under Section 18-207, that
14 Statute expressly provides that that mental disease or defect
15 does not include any abnormality manifested only by repeated
16 criminal or otherwise antisocial conduct.

17 I would not expect to permit any psychiatrist to
18 base an opinion solely on the repeated criminal conduct. I
19 did previously rule the State could not prove crimes in other
20 jurisdictions; even though there was some similarity in
21 pattern because the prejudice would outweigh the probative
22 value.

23 I think, if the defendant himself proves crimes in
24 other jurisdictions, that prejudice will be dissipated thereby
25 and I feel that if it becomes appropriate on rebuttal for the

1 State to prove those crimes they offered to, specifically in
2 Oregon, that there would be no reason, if it was appropriate
3 rebuttal or impeachment, to allow those to be proved by the
4 State.

5 MR. ROBINSON: May I comment on that, Your Honor?

6 THE COURT: The third point is that I would feel that
7 law of the case would be that no results of polygraph or
8 truth serum tests would be admissible in this case.

9 MR. ROBINSON: If I may, Your Honor.

10 THE COURT: Yes.

11 MR. ROBINSON: The Court's guidelines have -- or are
12 well understood and have been anticipated by the defense.

13 We realize, Your Honor, that in going into the
14 defense of full disclosure we are, in effect, opening a
15 Pandora's Box that what the Court has stated the prejudice
16 aspects of the out-of-state crimes would then be totally
17 admissible on the rebuttal and I can only say to that,
18 Your Honor, what we're attempting to do is to bring up the
19 solitary -- the whole truth.

20 THE COURT: Well, I'm not saying this by way of -- I
21 just want you to understand the law of the case so there won't
22 be any surprise on anybody's part when I make those rulings.

23 MR. ROBINSON: And I agree with the Court's interpretat
24 of the law because that's the way I understood it also.

25 THE COURT: All right. Fine.

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Counsel ready to proceed, then?

MR. ROBINSON: Ready to proceed.

MR. REMAKLUS: State is ready, Your Honor.

THE COURT: Bring the jury in.

(Jury entered the courtroom.)

THE COURT: Let the record show the jurors are all present.

MR. ROBINSON: May I proceed?

THE COURT: Mr. Robinson, you may make your opening statement to the jury at this time.

MR. ROBINSON: Judge Durtschi, Counsel, ladies and gentlemen of the jury. First understand that in our jurisprudence and system of justice the defendant does not have to take the stand and I'm sure the Court will instruct you in this manner.

We are going to present to you the defendant's testimony and his testimony is going to be much like the Prosecution told you they were going to follow through on the presentation of their case; that they were going to follow a route from Lewiston, Idaho to Glenns Ferry, Idaho.

Well, the defense is going to follow a route, that route being the life of Thomas Eugene Creech; from the date of his birth through his youth and, more specifically, from the year in 1966 to November the 8th of 1974 and then his testimony regarding the facts and occurrences that took

1 place after his incarceration and arrest to face these two
2 charges.

3 Along through the testimony I'm sure that you are
4 going to find it complex, complicated. We will try our utmost
5 to keep it as chronological in time as possible. There will
6 be aspects of the testimony of Thomas Eugene Creech that
7 will be shocking and I say this because, at this particular
8 point, I don't believe that the State has proven Thomas Creech
9 to be a cold-blooded thrill killer.

10 In the testimony that you will hear from him I
11 hope that you don't get this idea and turn away from the facts
12 of the case. Tom's testimony would show that after his
13 long engagement in a life of crime he himself turned,
14 appointing himself both judge and jury and executioner against
15 dopers and dope pushers and forcible rapists and eliminated
16 them by killing, or wasting them.

17 I ask that you keep your minds open throughout
18 the defense in this case and listen to all of the testimony
19 before making up your mind as to guilt or innocence of these
20 two deaths that Tom is charged with.

21 Thank you, Your Honor. We're ready to proceed.

22 THE COURT: Call your first witness.

23 MR. ROBINSON: Call Thomas Eugene Creech.
24
25

1 A. Zola Faye Turner Creech.

2 Q. And your father's name?

3 A. Harold Dean Creech.

4 Q. How long did you and your family remain in
5 Dayton, Ohio?

6 A. Until I was approximately five years old.

7 Q. And then where did you move?

8 A. To Mt. Orab, Ohio.

9 Q. Is that O-r-b?

10 A. O-r-a-b.

11 Q. Mt. Orab? And where did you attend grade schools?

12 A. Mt. Orab, Ohio.

13 Q. Is that all six of the elementary grades?

14 A. Eight.

15 Q. Through the eighth? And would you tell us your
16 brothers' and sisters' names, starting with the oldest.

17 A. I have a half sister by my father's first marriage,
18 half sister Brenda, I don't know either one of their ages, by
19 my father's first marriage.

20 Q. Are these in their 30s now?

21 A. I think so.

22 Q. All right.

23 A. I've got one real sister, Virginia, she's my oldest
24 sister, she's 29; I have a brother Bill that's 28; I have a
25 brother Jim who is 26 and I've got a younger brother 18, Joey,

1 A. About 23 miles.
2 Q. All right. Did you attend school at Hamilton,
3 Ohio?
4 A. Yes, I did.
5 Q. Through what grades?
6 A. I quit when I was in the 11th grade.
7 Q. What section of town did you live in?
8 A. I'm not sure about that question.
9 Q. Was it geographically east, west, north, south
10 Hamilton?
11 A. South, I guess.
12 Q. Pardon?
13 A. South part of town.
14 Q. All right. Would you describe your family home at
15 that time; the relationship with your mother and father?
16 A. My mother and father were separating, sort of, they
17 was living together sometimes and sometimes they wasn't.
18 Q. How long had that been the case?
19 A. God, for a long time.
20 Q. That's prior to when you were in the 11th grade --
21 A. Yes.
22 Q. --- that had been the circumstance?
23 A. Yes.
24 Q. Were your parents ever divorced?
25 A. Yes.

1 Q When did that take place; if you can recall?
2 A They got divorced when I was in prison, so, '69 or
3 '70.
4 Q All right. So that is subsequent to your
5 discontinuing your education in the 11th grade; is that correct?
6 A Yes.
7 Q Would you describe your relationship with your
8 father?
9 A We were pretty close.
10 Q And what do you mean by that?
11 A Well, I liked him better than I did my mother.
12 Q Would you describe some of the activities you
13 participated in with your father?
14 A Hunting, fishing, camping trips; whatever.
15 Q What was your father's occupation?
16 A He was an engineer, heavy equipment.
17 Q All right. Did your mother work outside of the
18 home?
19 A Yes.
20 Q And what kind of work did she engage herself in?
21 A She worked in a couple pizza houses as managers and
22 restaurants and a couple of bars.
23 Q Did your father drink?
24 A Yes.
25 Q What kind of beverages?

1 A. About everything, I guess.

2 Q. Did your mother drink --

3 A. Yes.

4 Q. -- alcoholic beverages?

5 A. Yes.

6 Q. To what extent?

7 A. She got pretty loaded sometimes.

8 Q. And were there ever any physical violent arguments

9 that occurred in your presence as a youngster between your

10 mother and your father?

11 A. Yes, they had fights, sometimes.

12 Q. Would the fights and arguments result in actual

13 violence of hitting or throwing things?

14 A. Yes, they'd knock each other around and break up

15 things.

16 Q. When you were nine years old, did one of these

17 occasions take place Christmas of that year of your life?

18 A. 1959, yes.

19 Q. Would you describe what occurred?

20 A. It was Christmas Eve and we had quite a few of our

21 relatives living with us. We lived on a pretty big farm and

22 my mom thought my dad was messing around with my aunt and they

23 was living behind us in a trailer. So, she put a note under

24 the door telling him to leave, broke out all the windows and

25 goes down and breaks out all the windows in our gas station and

1 comes back to the house and then the following -- about an hour
2 after that her -- when my dad got in an argument and they
3 started fighting they tore up the Christmas tree and all the
4 cakes and goodies and my dad left and following morning my aunt
5 come over to the house and tried to kill my mother.

6 Q By what means?

7 A She walked in and said "Merry Christmas" and pointed
8 a gun and started shooting.

9 Q Was anyone hit?

10 A My father got shot in the shin trying to take the
11 gun away from her.

12 Q Where did you and your brothers and sisters and
13 mother go when this occurrence took place?

14 A Out the windows.

15 Q Were there other occasions of similar circumstances
16 that occurred in your youth similar to that?

17 A Lot of fights.

18 Q Were there ever any other occurrences where
19 firearms were displayed, or used?

20 A By my mother and father?

21 Q Yes.

22 A Sort of, I guess.

23 Q Well, I don't want any guesses. Do you recall any?

24 A Yeah, once.

25 Q And when did that take place and how old are you --

1 or were you?

2 A. I think I was either nine or ten or 11; somewhere
3 along there and I was afraid of the dark and I had to go up to
4 the well to get water and I run back to the house with the
5 water and I got there, the buckets were empty so I had to go
6 again. I took my father's .22 pistol and he jumped out at me
7 and I started shooting at him because I thought he was a
8 monster or something and, then him and my mother had an argument
9 about the weapon and they had another big fight.

10 Q Have you been baptised?

11 A. Yes.

12 Q More than once?

13 A. Yes.

14 Q When was the first time you were baptised? How
15 old were you?

16 A. Eleven or twelve years old.

17 Q What church?

18 A. The first time I got baptised I was in the Baptist
19 Church.

20 Q Where?

21 A. In Williamsburg, Ohio.

22 Q Were any of your other brothers and sisters baptised
23 at the same time?

24 A. Yeah.

25 Q How many of them?

1 A. Well, my mother and two of my brothers and my
2 sister.
3 Q At that time were you attending church or
4 Sunday school regularly?
5 A. Yes, I was.
6 Q Was that your mother's or your father's church?
7 A. Well, Baptist was my father's church.
8 Q All right. Were you subsequently baptized to that
9 first time?
10 A. You mean baptized again?
11 Q Baptized again in the church?
12 A. Yes, in the Church of Christ.
13 Q How old were you then?
14 A. Thirteen.
15 Q And where did that take place?
16 A. Blue Ash, Ohio.
17 Q And whose church was that; your mother's or your
18 father's?
19 A. My mother's.
20 Q Did your mother and your father have disagreements
21 regarding religion and which church they were going to follow
22 in the family?
23 A. Yes.
24 Q After you quit school in the eleventh grade, did
25 you continue church attendance?

1 A No, I didn't.

2 Q What were your grades like in your first eleven

3 years?

4 A Good and bad.

5 Q Explain that if you would, please.

6 A Well, math, I got --

7 Q Would you speak up, Tom. I have difficulty -- do

8 you need some water?

9 A No, I don't need no water.

10 Math, I didn't get too good grades in. History,

11 government and English I got pretty good grades.

12 Q All right. Who was Danny Johnson?

13 A The first person I ever killed.

14 Q How long had you known him prior to his death?

15 A For about a year and a half.

16 Q What was the nature of your acquaintance with

17 Danny Johnson?

18 A He was a friend of the girl that I was going with

19 at the time.

20 Q What was her name?

21 A Sandy.

22 Q Her last name?

23 A Scott.

24 Q And where were you living at the time this

25 occurrence took place?

1 A. No, I didn't.
2 Q. What were your grades like in your first eleven
3 years?
4 A. Good and bad.
5 Q. Explain that if you would, please.
6 A. Well, math, I got --
7 Q. Would you speak up, Tom. I have difficulty -- do
8 you need some water?
9 A. No, I don't need no water.
10 Math, I didn't get too good grades in. History,
11 government and English I got pretty good grades.
12 Q. All right. Who was Danny Johnson?
13 A. The first person I ever killed.
14 Q. How long had you known him prior to his death?
15 A. For about a year and a half.
16 Q. What was the nature of your acquaintance with
17 Danny Johnson?
18 A. He was a friend of the girl that I was going with
19 at the time.
20 Q. What was her name?
21 A. Sandy.
22 Q. Her last name?
23 A. Scott.
24 Q. And where were you living at the time this
25 occurrence took place?

1 A. Route 4, Hamilton, Ohio.

2 Q Had either Sandy or Danny Johnson been classmates

3 of yours in school?

4 A. I think Danny had.

5 Q When did you meet Sandy?

6 A. The first time I met her was in a skating rink when

7 we still lived in Mt. Orab, Ohio.

8 Q Approximately when was that?

9 A. That was in '64 or '65; right before we moved to

10 Lebanon.

11 Q Was Sandy killed?

12 A. Pardon?

13 Q Was Sandy killed?

14 A. Yes, she was.

15 Q Would you describe to the jury the nature, manner

16 that Sandy was killed?

17 A. She was killed in an automobile accident in the

18 car that was being driven by Danny Johnson at the time and they

19 were loaded on drugs.

20 Q Both Danny Johnson and Sandy were loaded on drugs?

21 A. I think the autopsy report showed that Sandy had

22 been taking drugs at the time of the accident.

23 Q How close was your relationship with Sandy at that

24 time -- at the time of her death?

25 A. We was going to get married the following summer.

1 Q What effect did Sandy's death have upon you?

2 A It turned me against drugs, pretty much, and -- I
3 don't know.

4 Q At that time were you a user of drugs yourself;
5 either marijuana or other drugs?

6 A I had tried some of them.

7 Q And at that time had you started drinking beer?

8 A Yeah, I was pretty heavy into that.

9 Q Pardon?

10 A I was pretty heavy into that.

11 Q All right. As a result of this occurrence what
12 did you do to Danny Johnson and when?

13 A August of 1966 we went swimming and --

14 Q The location of where you went swimming is where?

15 A New Miami, Ohio at the gravel pits and I drowned
16 him because I thought that he was responsible for Sandy's
17 death.

18 Q Who else was with you besides Danny Johnson when
19 this occurrence took place?

20 A Karen Stoddis.

21 Q Spell that.

22 A S-t-o-d-d-i-s.

23 Q Were any firearms used in Danny's death?

24 A No, there wasn't.

25 Q Did you dispose of his body?

1 A. Yes.

2 Q In what manner?

3 A. I tied sand bags to him.

4 Q And left him where?

5 A. At the bottom of the lake.

6 Q Would you describe that gravel pit as to depth,
7 shallow, deep?

8 A. Well, it's supposed to be bottomless. There's --
9 it's deep enough where you can drop a crane in it and sometimes
10 they can't find them.

11 Q After that occurred what did you and Karen then do?

12 A. We left.

13 Q And went where?

14 A. I -- in the next three or four weeks I went to
15 California. I forget where Karen went.

16 Q You and Karen then split?

17 A. Yes.

18 Q All right. How did you finance your trip to
19 California?

20 A. I forged about \$500 worth of checks on my mother
21 and father.

22 Q And how did you travel from Ohio to California?

23 A. By bus.

24 Q How long did it take you to get there?

25 A. Well, it was only supposed to take three days, but

1 it took me about ten.

2 Q Why?

3 A I had never been -- before that I had never been
4 over 300 or 400 miles from home and I was pretty fascinated by
5 the sights of the different states as I was going through them
6 looking at things.

7 Q Tom, I'm still having trouble hearing, so if you
8 would concentrate on keeping your voice up.

9 Where in California did you go?

10 A San Francisco.

11 Q Do you remember, or recall the date that you
12 arrived in San Francisco?

13 A No, I don't.

14 Q And what did you do the first night of your being
15 in San Francisco?

16 A First day that I got there it was still nighttime
17 and I stayed all night in a bus station.

18 Q Do you have any relatives, friends, acquaintances
19 in San Francisco, California at that time?

20 A Not right at that time. I met some people later
21 on.

22 Q What did you do the second day in San Francisco?

23 A I went out walking around all over the, what they
24 call the "Tenderloin area", the mission district of
25 San Francisco and up and down Market Street. At that time

1 Haight-Ashbury was going pretty strong and I was handing out
2 money to the people that was begging for money.

3 Q Anything unusual occur the first night that you
4 were there in San Francisco?

5 A Yes.

6 Q What?

7 A Well, I met this girl and she asked me to go home
8 with her and, so, I did. When I started to walk inside the
9 door two of her black friends jumped on me and asked me what
10 I was doing with their old lady and beat me up and took all my
11 money.

12 Q What do you mean they beat you up?

13 A They beat me up pretty good.

14 Q With fists?

15 A Fists and feet, both.

16 Q Did you have any money left after that occurrence?

17 A No, I don't think so.

18 Q What did you do -- you then do?

19 A Well, I just went out on the streets and I was
20 sorry that I had given all the money away that I did before.
21 So, I tried my hand at what you call "panhandling", begging
22 money.

23 Q Begging money?

24 A Yes.

25 Q And engaged in this activity did you meet any

1 persons that became long-time acquaintances?

2 A Yes, I did.

3 Q Who was that?

4 A One was Larry Ramsey which, at that time, was
5 Vice-President of the Hell's Angels, Oakland Chapter.

6 Q And what's the Hell's Angels?

7 A It's a motorcycle club.

8 Q What is the nature of the acquaintance you
9 established with Larry Ramsey?

10 A Well, he found me all beat up and asked me what
11 had happened and I think he was more concerned about the money
12 that was lost and he said he'd try to help me get it back if I
13 could show him where it happened at and --

14 Q Concerned about the money for you or for him?

15 A Well, I think he wanted it, so --

16 Q Did Larry Ramsey have a street name?

17 A Crazy Larry.

18 Q Through him did you meet other persons there in
19 San Francisco?

20 A Yes. I -- he took me to a place on Levenworth and
21 McAllister Street called "The Hospitality House" and introduced
22 me to his younger brother Raymond Ramsey.

23 Q Was Raymond a member of the Hell's Angels?

24 A Not at that time he wasn't.

25 Q Did he have a nickname?

1 A. Just "Ramsey".

2 Q. All right. And what was the halfway house in
3 San Francisco?

4 A. It was a place where people could go that -- if
5 they needed a place to crash or anything and there was a lot of
6 runaways and a lot of drugs there.

7 Q. Did you participate and partake of drugs while
8 there?

9 A. Yes, I did.

10 Q. What next occurred in San Francisco?

11 A. Well, I left the Hospitality House and went out on
12 my own. I met a guy named LeRoy Fields which became a pretty
13 good friend of mine.

14 Q. And does he have a name?

15 A. No.

16 Q. Did you kill anyone in San Francisco on this trip?

17 A. Yeah, a queer.

18 Q. You're referring to a homosexual?

19 A. Yes.

20 Q. How did that occur?

21 A. I was in Union Square Park and he came up to me and
22 asked me if I'd like to have something to eat and at that time
23 I didn't have any money and I said "Yes".

24 I thought he was referring to taking me to a
25 restaurant and instead I ended up at his house.

1 Q And what happened?

2 A Well, he tried -- well, what do queers do --

3 (Brief delay.)

4 THE COURT: I don't want any outbursts or disturbance in
5 the courtroom or I'm going to clear the courtroom.

6 Q BY MR. ROBINSON: Tom, I want you to be very
7 factual about all of these circumstances.

8 A Well, he tried to -- he wanted to -- I don't want
9 to say it.

10 Q Did you take a shower there?

11 A Yes, I took a shower.

12 Q Come out of the shower and find him nude?

13 A Yes.

14 Q How did you kill this man?

15 A After he had tried to get me to go to bed with him
16 he asked me if I would take a belt and beat him. I said "No"
17 and I was trying to get out of the house. Then I asked him if
18 I could have a beer and I had a beer and ended up, probably
19 drinking ten or 12 and he asked me again if I would beat him.
20 By that time I was so drunk I figured I might as well go ahead
21 and beat him if that's what he wanted. But, I didn't stop. I
22 kept on beating him.

23 Q With anything besides a belt?

24 A Yeah, everything I could get my hands on.

25 Q Were you, at that time, under the influence of any

1 drugs?

2 A. Methedrine, speed.

3 Q Besides the beer?

4 A. Yes.

5 Q How do you know he was dead?

6 A. Because he wasn't breathing.

7 Q What did you do then in relationship to his

8 apartment?

9 A. I took what money he had in his wallet and also his

10 watch and his rings, other things, and -- that I thought I

11 could sell and I left.

12 Q Was that in October of 1966?

13 A Somewhere in that area.

14 Q How old were you?

15 A. I had just turned 16 before I went to California,

16 so I was 16.

17 Q Where did you then go?

18 A. Well, I was pretty scared so the next morning I

19 called my mother and father and -- or that same evening and I

20 asked them to wire me money to come home on.

21 Q Did they?

22 A. Yes, they did.

23 Q And how did you travel from San Francisco back to

24 Ohio?

25 A. By bus again.

1 Q What happened upon your return to Hamilton, Ohio?

2 A Everything went pretty good for about two weeks and
3 then my father and I got in a fight because of the checks that
4 I had written and forged to finance my trip to San Francisco.

5 Q What was the nature of that fight?

6 A He tried to --

7 Q Excuse me, go ahead.

8 A -- he tried to beat me in the head with an ashtray.

9 Q And out of that discussion, or argument with your
10 father, what did you arrange as far as repayment of the amount
11 of money that you had forged on their account?

12 A Well, I started working at different jobs until I
13 had earned enough money to pay them back; the money I had
14 forged on the checks.

15 Q Would you describe those different jobs to the
16 jury?

17 A Yes. I worked as a fry cook, I worked as a fry cook
18 at two or three different restaurants and I also worked as a
19 gas station attendant at Jim Breasher's station in Fairfield,
20 Ohio.

21 Q Were you fired from any of those jobs?

22 A I was fired from one of the restaurant jobs because
23 the safe come up missing \$40.

24 Q Were you accused of taking the \$40?

25 A Yes, I was.

1 Q Had you taken the \$40?

2 A Yes, I did.

3 Q During this period of time what was your usage of
4 alcoholic beverages and the use of drugs?

5 A I got drunk about every day.

6 Q By "drunk" what do you mean? A few beers or
7 intoxicated to the extent of being in a stupor?

8 A I don't know about being in a stupor. I was so
9 drunk I couldn't hardly walk.

10 Q All right. What next occurred?

11 A I then went to Dayton, Ohio where I met
12 Freddy Richardson who was, at that time, President of the
13 Chapter of Outlaws motorcycle club.

14 Q Is that a motorcycle club headquarters or
15 originating from Ohio?

16 A Yes, it is.

17 Q Do the Outlaws have branches and chapters in
18 various other states?

19 A They have chapters in different branches throughout
20 the United States. It's national.

21 Q Did you become a member of the Outlaws?

22 A Yes, I did.

23 Q When?

24 A Well, I began my prospecting as an Outlaw shortly
25 after I had met Freddy and I gained a rank of an office of

1 Chief Enforcer after I had taken five contracts for Freddy.

2 Q All right. First of all, what is a "prospect"?

3 A Prospect is a biker who is -- before he gets his
4 colors and patches you've got to "prospect" before you become
5 a biker.

6 Q By "prospecting" do you have to go through an
7 initiation process?

8 A Something like initiation. There's different
9 things you have to do to earn different colors and different
10 patches.

11 Q And is that proving your value or worth?

12 A Yes, it is.

13 Q Now, you say you gained the rank of Enforcer after
14 filling five contracts for Freddy Richardson?

15 A Yes, I did.

16 Q Where did those take place?

17 A In Dayton, Ohio.

18 Q Did you understand the reason for the contracts?

19 A My understanding was -- well, up until this point
20 nobody else knew that I had killed Danny or that queer in
21 California until I told Freddy about it. He didn't believe that
22 I had done it so, in order to prove myself to him and prove
23 myself to the motorcycle club and to earn my colors and the
24 rank of Chief Enforcer, I was given orders to kill five people
25 for Freddy; which were supposedly the reason for the deaths of

1 his brother and his wife.

2 Q What month and year was this confrontation and
3 your taking those five contracts?

4 A The first three I found them pretty easy. I didn't
5 get, until right before I went in the Army in 1967 --

6 Q So, then, what month in 1967 did you fill the first
7 three?

8 A Probably -- I'm not sure about what month it was.

9 Q All right.

10 A I know the last two was in July or August.

11 Q Of 1967?

12 A Yes.

13 Q How did you fill -- would you describe the
14 circumstances of filling the first two contracts?

15 A First three, you mean?

16 Q The first three. Did you find them -- all three
17 of those together?

18 A Yes, I did.

19 Q All right. Describe, please.

20 A I was given a location of where these three people
21 lived at. It was on -- they lived on the same road as the
22 club house was on, off Drexell Avenue in Dayton, Ohio, and
23 Union Farm Road.

24 I then went to the house, walked in the door and
25 they were all three sitting on the floor, fixing and, by what I

1 mean as "fixing" they was shooting drugs and I shot them.

2 Q With what kind of a weapon?

3 A Shotgun.

4 Q Would you describe the method and means you used
5 for filling the contract on the other two of the five?

6 A I didn't understand what you said, Bruce.

7 Q Would you describe the method or means you used to
8 fill the contract on the other two of the five for Freddy,
9 Freddy Richardson. First of all, where did you find them?

10 A I'm not sure of the location where I found them but
11 I gave them both bad drugs to mainline.

12 Q And both of them died as a result of that?

13 A Yes, they did.

14 Q As a result of filling those five contracts, is
15 it your testimony that you were advanced in office in the
16 Outlaws organization that of Chief Enforcer?

17 A Yes.

18 Q What are the duties of a Chief Enforcer?

19 A To enforce and instruct other members of the club
20 to fulfill their duties and if any of them got out of line I
21 would put them back where they was supposed to be. Another one
22 of the main duties was any contracts that was handed down I
23 would make sure that they was carried out.

24 Q Whether they were contracts given to you personally
25 or other members of the biker organization?

1 A. Yes.

2 Q. Were the Outlaws at this time engaged in drug

3 traffic?

4 A. Some, not nationwide.

5 Q. Is there a particular religion connected to the

6 biker organization?

7 A. Not really.

8 Q. What do you mean by "not really"?

9 A. Not all -- not all the people are Satanic

10 worshipers.

11 Q. Are you a member of the Satanic Cult?

12 A. Yes, I am -- or was.

13 Q. Or was? When did you first become a member of

14 the Satanic Cult?

15 A. I was introduced to Satanism when my first trip to

16 San Francisco -- when I was 15 I became a member of the

17 Satanic Church in San Francisco in 1968.

18 Q. Did that involve baptism?

19 A. It didn't involve baptism, it involved rituals.

20 Q. All right. Then, when in 1967 did you go into the

21 Service?

22 A. September 27, 1967.

23 Q. And what branch of the Service?

24 A. Army.

25 Q. Where did you take your basic training?

1 A Took my basic training at Fort Benning, Georgia.
2 Q How long were you in basic training?
3 A Eight weeks.
4 Q Did you gain any temporary rank or status during
5 that period of time?
6 A When I was graduated from basic training I was
7 graduated and I had acting rank as E-5; which is Buck Sergeant.
8 Q Did you come home on leave?
9 A Yes, I did.
10 Q How long?
11 A It was a 14-day leave, but it ended up for about
12 30 days or more.
13 Q During that leave were you married?
14 A Yes, I was.
15 Q To whom?
16 A Imogene Fredricks.
17 Q Where is she from?
18 A She's from Hamilton, Ohio.
19 Q And the date of your marriage?
20 A March -- wait a minute. January 3rd, 1968.
21 Q As a result of this marriage did you get extensions
22 on the termination of your basic training leave?
23 A Yes, I did.
24 Q How many extensions?
25 A One or two and I tried to get another one and they

1 wouldn't give it to me so I stayed home anyway.

2 Q You were then absent without leave, or referred to
3 as AWOL?

4 A Yes, AWOL.

5 Q How long did you stay AWOL?

6 A For probably a month or so.

7 Q And what happened?

8 A I got caught.

9 Q Where and by whom?

10 A By Hamilton Detectives from Butler County and, then,
11 I was sent back to Fort Dix, New Jersey for AIT, Advanced
12 Individual Training.

13 Q All right. Did you receive any punishment for
14 being AWOL?

15 A Yes. I got a special court martial.

16 Q And the punishment assessed at what?

17 A Six months hard labor and two-thirds of my pay
18 deducted.

19 Q And was that sentence carried out?

20 A Not the first time.

21 Q All right. Then what -- were you subsequently
22 AWOL again?

23 A Yeah, about five or ten times.

24 Q And what was the reason, or your reason for going
25 AWOL?

1 A. Well, my next time that I went AWOL was my wife,
2 "Emma" had called me and said that she was having problems and
3 her parents was no longer going to let her stay with them. She
4 was pregnant and I tried to get a leave through the Chaplain
5 and they refused to let me go. So, I went on anyway.

6 Q. And how long were you free, or AWOL?

7 A. About a month.

8 Q. Were you then apprehended for the second AWOL
9 charge?

10 A. Yes, I was.

11 Q. Where?

12 A. In Hamilton, Ohio.

13 Q. This time you were returned to a stockade?

14 A. I was sent from the County Jail to Newport,
15 Kentucky to federal holding facilities. I was then picked up
16 from there and sent to "Knox" stockade.

17 Q. All right. And did you get a special or general
18 court martial from this period of being absent without leave?

19 A. It was a special court martial.

20 Q. What did they assess your punishment at?

21 A. Six months hard labor and two-thirds of my pay
22 deducted.

23 Q. Did they carry out that sentence?

24 A. I spent 60 days in the stockade and lost two-thirds
25 of my pay for two months.

1 Q Were you then returned to active duty?
2 A Yes, I was.
3 Q And when next did you go AWOL?
4 A Right after they let me out of the stockade.
5 Q And where did you go this time?
6 A I went back to Hamilton and left Hamilton and went
7 back to California.
8 Q With whom?
9 A I'm not certain about who.
10 Q Did you go back to California with any particular
11 person or just back to California by yourself?
12 A I think that Karen went with me on this --
13 Q Karen?
14 A Yes.
15 Q Is that the same Karen that had been with you in
16 the killing of Danny Johnson?
17 A Yes.
18 Q And how long were you in California before you were
19 apprehended?
20 A Well, I got picked up in Ventura, California about
21 a month or two later drunk on the freeway.
22 Q And was this on a charge of being AWOL?
23 A Well they found out I was AWOL after they picked me
24 up on the freeway.
25 Q Were you returned to the military authorities then?

1 A I was taken to the State Police office and they took
2 me to Port Hueneme brig, Navy-Marine brig. I stayed there for
3 three days or four and I was sent to Fort MacArthur and from
4 Fort MacArthur I was transported to Fort Riley, Kansas stockade.
5 Q And there did you receive a general court martial?
6 A No, I got another special court martial.
7 Q During the time of this last AWOL, were you -- any
8 crimes committed by you?
9 A I'm not sure.
10 Q All right. And what was the punishment assessed
11 at Fort Riley, Kansas?
12 A Six months at hard labor and two-thirds of my pay
13 deducted.
14 Q And did they carry out that sentence?
15 A About -- I spent about another 30 days or 60.
16 Q And then what happened?
17 A I got out again and went AWOL again.
18 Q And this time for what reason?
19 A I don't think I really had a good reason that time.
20 I just left.
21 Q Did you leave with anyone in particular?
22 A No.
23 Q All right. Where did they apprehend you then?
24 A I think back in Ohio again.
25 Q And then where were you taken?

1 A. I was sent to Fort Benjamin Harris, Indiana stockade
2 and I was transferred back to Fort Riley, Kansas correctional
3 training facility.

4 Q. Another special court martial?

5 A. Another special court martial.

6 Q. Same sentence?

7 A. Same sentence.

8 Q. Did they carry out that sentence?

9 A. Yeah, the whole thing.

10 Q. Six months?

11 A. Yes.

12 Q. And where did you serve that six months?

13 A. Well, I didn't completely get finished serving it
14 because I tried escaping with a friend by the name of Malone
15 and another one of the guys that -- by the name of Eagleburger.

16 Q. An unsuccessful escape attempt?

17 A. Yes. We were just on the fence and they caught us.

18 Q. And for that escape attempt did you receive further
19 charges and sentencing?

20 A. Yes. I was -- it was -- at the time I had cut a
21 Lieutenant with a razor blade that was on the end of a
22 toothbrush. I got another special court martial and I spent
23 about, possibly, a month in maximum security in the Correctional
24 Training Facility and was then transferred to Fort Levenworth,
25 disciplinary barracks in Fort Levenworth, Kansas.

1 Q Is Fort Leavenworth, Kansas the same location that
2 of the Federal Penitentiary?

3 A Yes, it is.

4 Q Disciplinary barracks are on the same grounds?

5 A No, they are not. The Federal Prison is about,
6 I think, one or two miles. You can see it from the disciplinary
7 barracks.

8 Q All right. And what was the sentence you then had
9 facing you?

10 A Well, they totalled up all my AWOLs and I had
11 about 18 months or two years sentence.

12 Q Did you serve that time?

13 A I served most of it and -- until I escaped.

14 Q And when did you escape?

15 A In the last part of November, 1968.

16 Q With whom did you escape?

17 A The same two guys that was going with me in
18 Fort Riley, Eagleburger and Malone.

19 Q What means did you use to escape?

20 A Well, we had to go through a training program for
21 eight weeks, special training to get on the outside of the
22 walls. So, we acted pretty straight and -- until we got on the
23 outside of the walls and then we left.

24 Q Just took off?

25 A Yes.

1 Q In which direction did you head from
2 Fort Leavenworth, Kansas?

3 A We went to Charles Eagleburger's sister's house in
4 Norton, Kansas and I don't know what direction it was.

5 Q What means of transportation did you use?

6 A We stole automobiles on the way.

7 Q Did all three of you stay in Norton, Kansas for
8 any length of time?

9 A Well, after we got there Charles decided to turn
10 himself in.

11 Q Charles whom?

12 A Eagleburger decided to turn himself back in and go
13 back to the Disciplinary Barracks and me and Malone left and
14 went to Ohio.

15 Q Have you ever met Eagleburger since then?

16 A I've never seen him since that date.

17 Q All right. And you and Malone then decided, you
18 say, go to Ohio?

19 A Yes.

20 Q Would you describe your trip to Ohio?

21 A We still had the same stolen car we -- the last car
22 that we stole on the way going to Charles' sister's house. It
23 was, I think -- I believe it was a '65 Chevelle and just
24 happened to have the keys in it and stuff when we stole it.
25 So, we kept that car and drove it to Ohio.

1 Q Did you travel in the daytime?
2 A Not very much. We traveled mostly at night.
3 Q For what reason?
4 A We had a hot car.
5 Q All right. Did you drive this particular vehicle
6 all the way to Hamilton, Ohio?
7 A Yes, we did.
8 Q What did you do with it after you arrived in
9 Hamilton?
10 A I sold it to my brother.
11 Q Which brother?
12 A Bill.
13 Q That's the brother that's three or four years
14 older than you?
15 A Yes.
16 Q You didn't have any title to convey, did you?
17 A No.
18 Q All right. Were you picked up and apprehended for
19 this AWOL, this escape?
20 A Yes, on December 2nd, 1968.
21 Q Between the time you got back to Hamilton, Ohio
22 on December 2nd, 1968, had you been involved in any crimes there
23 in Ohio?
24 A Yes, we had -- or I had.
25 Q And what was that?

1 A. I killed a guy by the name of Ski.
2 Q S-k-i?
3 A. Yes.
4 Q Where was he from?
5 A. I think he was originally from Minnesota, I'm not
6 sure where he was from.
7 Q By this time had your child, Cricket, been born?
8 A. Yeah, Cricket was already born.
9 Q When was she born?
10 A. September 22nd, 1968.
11 Q Was that ever a reason that you attempted to
12 escape military confinement?
13 A. Yes, it was. I wanted to go home and see her.
14 Q Had you and your wife, Emma, separated or had you
15 been divorced by this time?
16 A. We were on the verge of getting a divorce.
17 Divorce had been filed.
18 Q All right. Had you ever met Ski before this
19 particular timeframe of the latter part of 1968 in Hamilton,
20 Ohio?
21 A. Had I met him before?
22 Q Yes.
23 A. Yes.
24 Q Where?
25 A. California.

1 Q When did you first meet Ski?

2 A I think I met him the first time in '66 or '65, the
3 first time I was out there. Then, again in '68 when I was on
4 one of my AWOL trips.

5 Q All right. What was he doing in Hamilton, Ohio?
6 Was he there for any particular reason is what I'm asking.

7 A I think he had just made a drug run there. I'm not
8 sure.

9 Q Was he a member of any of the biker organizations?

10 A Yes, he was.

11 Q Which one?

12 A Hell's Angels.

13 Q What do you mean "drug run"?

14 A He had made a drug drop there.

15 Q You are using terminology not all of us are
16 familiar with.

17 A He had delivered drugs to someone there.

18 Q On a regular basis?

19 A I don't know how regular he had been delivering
20 them, but he was there.

21 Q Would you describe to us the circumstances
22 surrounding Ski's death?

23 A Yes. We was in a place called "The Village Inn"
24 and we got pretty drunk together and my wife only lived three
25 houses down the street from The Village Inn. He started

1 making some comments about my wife and that he thought that she
2 might be pretty good in bed so I shot him.

3 Q Just like that you shot him?

4 A Yes.

5 Q Inside that place?

6 A As we were going out the door. We was fighting.

7 Q Pardon?

8 A As we were going out the door. We was fighting.

9 Q What do you mean by "fighting"?

10 A Well, it was slugging at each other.

11 Q What kind of weapons did you use?

12 A .32 automatic.

13 Q How long had you been carrying a .32 automatic?

14 A I'm not sure how long I had been carrying that.

15 Q Were you --

16 THE COURT: Just a minute. We'll take a ten-minute
17 recess at this time.

18 If you will remember the admonition, ladies and
19 gentlemen, don't discuss the case and keep your minds open.

20 (Recess taken.)

21 THE COURT: Show the jurors are all present.

22 MR. ROBINSON: May we proceed, Your Honor?

23 THE COURT: Yes.

24 Q BY MR. ROBINSON: Tom, just to backtrack a second,
25 has Danny Johnson's body ever been found to your knowledge?

1 A. I think it was.
2 Q. When?
3 A. I'm not sure.
4 Q. Pardon? You are not sure?
5 A. I'm not sure if it has been.
6 Q. All right. Was the homosexual in San Francisco
7 found?
8 A. I think he was.
9 Q. Were you -- each of the five that you took contracts
10 on from Freddy Richardson found?
11 A. No.
12 MR. REMAKLUS: I'm going to object that he's asking the
13 witness to testify strictly hearsay.
14 THE COURT: I'm going to sustain the objection unless
15 he has personal knowledge of the things which he's testifying.
16 Q. BY MR. ROBINSON: And Ski --
17 MR. REMAKLUS: I would make the same objection,
18 Your Honor.
19 THE COURT: Sustained unless a foundation is laid that
20 he has personal knowledge.
21 MR. ROBINSON: All right.
22 Q. BY MR. ROBINSON: Tom, was there any attempt to
23 dispose of Ski's body from the tavern there in Ohio?
24 A. No, there wasn't.
25 Q. Left him lay right where he was?

1 A Yes.

2 Q Then you say that you were arrested December 2nd,
3 1968?

4 A Yes.

5 Q And who arrested you on that charge?

6 A I was arrested for being AWOL -- or escaping.

7 Q All right. And did you get a general court martial
8 for this?

9 A No, I didn't. I got another special court martial.

10 Q And what was the punishment inflicted for that?

11 A I was sent back to Leavenworth to do the remainder
12 of my sentence.

13 Q And did you serve that sentence?

14 A I served until I got clemency on June 4 of 1969 and
15 was discharged with an Undesirable Discharge.

16 Q What do you mean you received "Clemency"?

17 A I received clemency.

18 Q Was there --

19 A From the Commandant.

20 Q Pardon?

21 A From the Commandant.

22 Q Was there some reason that you received this
23 clemency?

24 A Yes, there were.

25 Q What was that?

1 A. One of the guards were bringing in drugs, acid,
2 LSD to the inmates and one of my friends died from the stuff
3 that was being brought in by this guard. I, in turn, went to
4 the Security Officers and they gave me money to make a buy from
5 this certain guard.

6 Q This is while at Fort Levenworth Disciplinary
7 Barracks?

8 A. Yes, it was.

9 Q And from this activity you received clemency; is
10 that what you are saying?

11 A. Yes, plus my good time that I had coming.

12 Q All right. And from that date in June were you
13 totally discharged from the Service?

14 A. Yes, I was.

15 Q What did you then do?

16 A. I returned home to Hamilton, Ohio.

17 Q Did you go to work?

18 A. Yes, I did.

19 Q Were you on probation or any restrictions at this
20 time?

21 A. No, I wasn't.

22 Q And during the course of -- or the period of time
23 that you were in the Service, from September of 1967 until
24 June of 1969, had you been in contact with Freddy Richardson
25 at any time?

1 A I'm not sure.

2 Q All right. Was he still President of the Outlaw

3 Chapter there in Ohio when you were discharged from the Service?

4 A I think that he was stripped of his colors and

5 thrown out as President and he went to another bike organization.

6 Q Where?

7 A I think he went to Florida.

8 Q All right. Following your discharge from the

9 Service, did you follow any of the activities as a member of

10 the Outlaw biker group in Ohio?

11 A I made a couple runs with them.

12 Q By "runs" what do you mean?

13 A Just traveling to different bike meets and when

14 the club meets and has runs to different places.

15 Q When were you next arrested?

16 A Well, let's see. July 27, 1969.

17 Q Had you been on the street for a month?

18 A Been out since June 4th of '69.

19 Q All right. During that period of time did you

20 commit crimes?

21 A Yes.

22 Q What crimes?

23 A Armed robbery.

24 Q And is that what you were arrested for? In July of

25 1969?

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A Yes.

Q Along with whom?

A Well, my brother, Bill, was arrested about a week before I was and a friend of mine, Clifford Smith, was arrested about two or three days before I was and I turned myself in.

Q Were those other two that you named involved in the same armed robbery that you were?

A Well, my brother was but he went down for a different armed robbery, his own.

Q All right. As a result of that arrest, was there a plea bargain between your counsel and the Prosecutor that you pled guilty to unarmed robbery?

A That's right.

Q Is that what you were sentenced for?

A I was sentenced two to five years in the Ohio State Reformatory for unarmed robbery.

Q And when were you sentenced?

A I pled guilty on December the 8th of '69 and I was sentenced December the 11th of '69.

Q Where were you taken?

A To the Ohio State Reformatory in Mansfield, Ohio.

Q Was your friend, Clifford Smith, and your brother, Bill Creech, also incarcerated, held in custody at that same institution?

1 A. My brother was. Clifford had already had a prior
2 record and he went there -- was a second felony so he went to
3 the Ohio State Prison instead of reformatory.

4 Q. All right. What happened to you while you were
5 there at the reformatory?

6 A. I got in a couple fights with what they call
7 "the lifers", the guys just going -- doing life sentences and
8 stuff and when a young guy comes into the prison they try to
9 make him a sissy or something and, so, this one --

10 Q. What do you mean "a sissy"? Is that a male boyfriend?

11 A. They try to make a queer out of him, I know that.

12 Q. All right.

13 A. So, I was in working in the cafeteria, the
14 reformatory, and he come through the line and he smarted off
15 and I threw a pitcher of hot tea on him and was sent to the
16 hole.

17 Q. And what resulted from that involving these same
18 individuals?

19 A. I don't understand what you are asking me.

20 Q. Did they retaliate against you for the resistance
21 you put up in the throwing of hot tea?

22 A. Well, we got in some pretty good fights.

23 Q. All right. And how long were you at that
24 institution?

25 A. Well, resulting from me throwing that tea on the

1 other inmate I was sentenced to the hole for 30 days and, after
2 I got out of the hole, about three days later I was transferred
3 to Lebanon Correctional Institution, minimum security.

4 Q Do you recall approximately what date that was?

5 A Yes. It was in March 17th of 1970.

6 Q And then you were at Lebanon Minimum Security?

7 A Yes.

8 Q When did you leave that institution?

9 A The last part of March I left Lebanon Correctional
10 Institution and was sentenced to Chillicothe Correctional
11 Institution, Psychiatric Unit.

12 Q What prompted that transfer?

13 A Another fight that I had gotten into with an
14 inmate of that prison that had come up behind me and had been
15 making remarks to me and I told him to stop it. He come up and
16 pinched me on my butt and I turned around, I was welding and I
17 picked up a piece of lead and busted him in the head.

18 Q Um-hmm. And how long were you at Chillicothe?

19 A Until I was transferred to Lima State Hospital for
20 the criminally insane.

21 Q When was that?

22 A July 14, 1970.

23 Q While at Chillicothe, did something unusual occur
24 regarding your father?

25 A Yes, my father died of a heart attack when he was

1 visiting me in the visiting room.

2 Q When was that?

3 A It was May 31, 1970.

4 Q Would you advise the Court and the jury as to what
5 the circumstances were?

6 A My mother and father and my youngest brother, Joey,
7 had been coming up on the weekends to visit me and we had just
8 got finished eating dinner and I looked over at my father and
9 he was slumped over the table and I tried to raise him up and
10 he slumped to the floor and he was dying of a heart attack.

11 Q Did you try to do anything at that time to aid and
12 assist his medical attention?

13 A Yes. I tried artificial respiration, mouth-to-mouth
14 and also some inmate nurses come in and the same thing and they
15 had him breathing a couple times. It was a three-minute walk
16 from the visiting room to the hospital and the inmate nurse
17 that they sent to get the oxygen, which could have saved my
18 father's life, took 27 minutes and some period in that time he
19 got the oxygen back.

20 Q Had you had trouble with that particular male nurse?

21 A Yes, I had.

22 Q What prompted your transfer to Lima State Hospital?

23 A I tried to kill the inmate nurse that I felt was
24 responsible for taking so long getting the oxygen for my father
25 and, also, they said I tried to hang myself.

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Q Did you?

A I don't think so. There was a rope in my cell but I don't remember trying to hang myself.

Q What means did you use to try to kill the male inmate -- or nurse?

A I made a knife out of a spoon, or had paid a guy five cartons of cigarettes to make the knife.

Q How long were you at Lima State Hospital?

A Well, I was transferred there on July 14, 1970 and I stayed there until September 14 of 1971.

Q Were there any unusual occurrences that took place while you were at Lima State Hospital?

A Yeah, all kinds of weird stuff.

Q As a result of being there with other inmates also classified as criminally insane or because of administration?

MR. REMAKLUS: I think I'm going to object to that as calling for a conclusion of the witness, Your Honor. I think he can testify as to what happened but he's giving reasons that are clearly beyond his knowledge.

THE COURT: Sustained.

Q BY MR. ROBINSON: Would you describe, then, Tom, what happened while at the Lima State Hospital?

A Well, when I first went there I was put on a "strong ward"; which is a ward where they consider the person either be dangerous to himself or to others. I stayed on that

1 strong ward for -- that was Ward 15. I stayed on there for a
2 month or so, two months, and then I got a job working under the
3 supervisor, Mr. Gordon, in the administration office as clerk.

4 Then I got involved in an escape attempt and was
5 put back in maximum security, Strong Ward 21; which is
6 punishment ward.

7 Then I was transferred to a dormitory ward on
8 Ward 13, after that. Then I was transferred to the hospital
9 where I worked on the "Old Man's Ward" as an orderly until I
10 was released.

11 Q Were you involved in any fights during this period
12 of time?

13 A Quite a few.

14 Q Pardon?

15 A Quite a few fights I was involved in.

16 Q As a result of any of those fights, was anyone
17 seriously injured?

18 MR. REMAKLUS: Again I would object to a question like
19 that, Your Honor. I have no objection to him describing what
20 happened, but drawing these conclusions, I do object to them.

21 THE COURT: Sustained.

22 Q BY MR. ROBINSON: When were you transferred from
23 Lima State Hospital?

24 A Back to Chillicothe.

25 Q Were you transferred from Lima State Hospital to

1 Chillicothe?

2 A Yes, I was.

3 Q When?

4 A September 14, 1970 -- or 1971.

5 Q And how long did you remain there?

6 A Well, I went to the "Probe" ward in November -- wait
7 a minute, I went to the Probe Ward in October, got my
8 parole papers back in saying I had my parole and I was
9 paroled on December 2nd, 1971.

10 MR. REMAKLUS: I'm sorry, I didn't get the date.

11 MR. ROBINSON: 1971, December.

12 Q BY MR. ROBINSON: What period of parole were you
13 then serving?

14 A Five years to life.

15 Q Did you have a parole officer?

16 A Yes, I did.

17 Q What was his name?

18 A Joe Fodal.

19 Q Spell that last name if you would.

20 A F-o-d-a-l.

21 Q What were the terms of your parole?

22 A That I wasn't allowed to leave the state, that I
23 had to work, maintain a job; that I wasn't allowed to get
24 married without permission; that I wasn't allowed to be in
25 possession of any firearms and that I report to my parole

1 officer either by letter or in person. I think it was once a
2 week or two -- twice a week or something like that.

3 Q Did you obtain employment?

4 A Yes, I did.

5 Q Where and what kind?

6 A Well, one of the jobs I had was working for this
7 guy, had a furniture place. It was auction sales and it was
8 the only job that I could get because of me just getting out
9 of prison.

10 Q What happened with that job?

11 A I quit it because of the pay. Was only -- I think
12 was working 12 hours a day for, like, \$40 a week.

13 Q And what kind of work were you performing then?

14 A Moving furniture, helping arrange the stuff that
15 they was getting ready to sell on auction nights.

16 Q What other employment did you go to then?

17 A I worked for Ron Hendell as a tree surgeon.

18 Q Apprentice, learning a trade?

19 A Yes.

20 Q How long did that last?

21 A Not very long, couple of months, maybe, or a month.

22 Q During this period of time had you been reunited
23 with your mother and sisters, brothers?

24 A With my mother and she had remarried and my
25 brothers and sisters too, yes.

1 Q And what was the name of the person that your
2 mother had remarried?

3 A Donald Glubber.

4 Q Where was he from?

5 A Somerset, Kentucky.

6 Q Was your mother living in Hamilton, Ohio at this
7 time or in Kentucky?

8 A Was she living in Hamilton?

9 Q Yes.

10 A Yes, she was.

11 Q All right. What was your next employment?

12 A I don't think my next employment wasn't legal.

13 Q A lot of things you've testified to haven't been
14 legal, but tell us what you engaged in, Tom.

15 A Drug traffic.

16 Q Pardon?

17 A Drug traffic.

18 Q What specifically did you do in drug traffic?

19 A I was a driver, running drugs from state to state.

20 Q Would you describe the method that was used -- or
21 that you engaged yourself in?

22 A The method used? I don't understand what you are
23 asking me.

24 Q What did you do in your employment in running drugs?

25 A I drove the cars that the drugs were loaded in.

1 Q Who do the cars belong to?

2 A Oh --

3 MR. REMAKLUS: I think this is clearly hearsay and I'd
4 object.

5 THE COURT: Sustained, unless the foundation is laid as
6 to personal knowledge.

7 Q BY MR. ROBINSON: How did you become employed in
8 running drugs?

9 A Through the biker organization that I belong to and
10 still belong to and also through Mr. Peter Simons.

11 Q Where did you first engage yourself in running of
12 drugs?

13 A Out of our biker organization.

14 Q What town?

15 A Dayton, Ohio.

16 Q What was your first trip? From where to where?

17 A For any really heavy drugs, my first trip was from
18 Indianapolis to Salt Lake City, Utah.

19 Q Was this a single car that you drove?

20 A Yes, it was.

21 Q By whom was that car owned?

22 A It was owned by --

23 MR. REMAKLUS: I would again object. He hasn't laid a
24 foundation.

25 THE COURT: Sustained.

1 Q BY MR. ROBINSON: How did you come into possession
2 of that vehicle?
3 A I got the car from the people I worked for.
4 Q And who was that?
5 A Acon Auto Transport.
6 Q And that was in Dayton, Ohio?
7 A No, this was -- the first run that I made with any
8 heavy drugs wasn't made out of Dayton. It was made out of
9 Indianapolis.
10 Q By "heavy drugs" what type of drugs are you talking
11 about?
12 A Heroin, cocaine.
13 Q Do you remember approximately what the date was of
14 this first trip from Indianapolis to Salt Lake City, Utah?
15 A It was in '72.
16 Q Do you remember whether it was spring, summer or
17 fall?
18 A It was in the last part of the year.
19 Q Prior to that occurring, had you killed any other
20 persons?
21 A Yes, I had.
22 Q Who?
23 A Guy by the name of Carey Whitesell who had stolen
24 \$200 from my father.
25 Q When was that?

1 A Right after I got out of prison.
2 Q Where did that take place?
3 A Hamilton, Ohio.
4 Q Would you describe the circumstances of
5 Carey Whitesell being killed?
6 A You mean where?
7 Q Yes.
8 A How?
9 Q Yes.
10 A I think it was at New Miami. I can't be certain if
11 it was there or not, but I think so. It was at New Miami
12 gravel pits. No, I take it back. It was at Four Mile Creek and
13 that's out in the outskirts of Hamilton, Ohio and I took him
14 there. He was with myself and some other people and I asked
15 him why he had stolen the \$200 from my father, plus there was a
16 lot of coins that belonged to my brother and he didn't give no
17 reason and I shot him, killed him.
18 Q What kind of weapon?
19 A .22 pistol, revolver.
20 Q Did you dispose of his body in any particular
21 manner?
22 A Threwed it in the creek.
23 Q Anyone else?
24 A Yes, there were five other people, six other
25 people that I killed -- I don't know. I can't remember all the

1 circumstances on all six of them, but two. I remember one was
2 in Covington, Kentucky and the other one was in Newport, Kentucky.
3 They were -- one guy's name was Don Anderson who worked for a
4 telephone company and had got in a fight with my father and had
5 caused him and my mother lots of problems. That happened at a
6 bar called The Pink Kitty Cat at Newport, Kentucky.

7 The other one, I can't recall the guy's name right
8 now, but it was in Covington.

9 Q Covington is located right across the Ohio River
10 near Cincinnati; is that correct?

11 A. Right beside Newport.

12 Q All right. And why was the man in Covington killed?

13 A. Because of things he had done to my father.

14 Q Such as what?

15 A. Such as using him and, like some of the tricks he
16 did to my father like getting him beat up and stuff in the
17 bars.

18 Q Were there four others?

19 A. Yes.

20 Q That had done something wrong to your father that
21 you had just mentioned?

22 A. Yes.

23 Q And what in particular had they done to your father?

24 A. At this, right now, I can't remember right offhand.

25 Q Do you remember where you killed them?

1 A. The other four, no. It was somewhere in Ohio. I
2 know that.

3 Q. And what method or means did you use?

4 A. Guns, but I'm not sure what caliber.

5 Q. And up to this date, in late 1972, when you started
6 running drugs for Acon --

7 MR. REMAKLUS: I would object to facts not being in
8 evidence, Your Honor.

9 THE COURT: Yes. I'm going to sustain the objection.

10 Q. BY MR. ROBINSON: Had there been -- had there been
11 any other killings other than you had described after your
12 discharge from Chillicothe up until this date in late 1972
13 that you haven't already told us about?

14 A. I had been to some rituals of the Satanic Cult
15 where they had performed human sacrifices.

16 Q. In what state was this?

17 A. Salt Lake City, Utah, outside of there, Ogden,
18 Beaver; Tulsa, Oklahoma.

19 Q. Any in Ohio?

20 A. Not that I can think of, not now.

21 Q. All right. And in each of those places named, were
22 you in attendance when human beings were killed?

23 A. Yes, I was.

24 Q. Were any of those killed by you?

25 A. No, there wasn't.

1 Q By whom were they killed?
2 A By the Priest in charge of that Order -- or that
3 family.
4 Q How many in Salt Lake?
5 A That I actually see?
6 Q That you actually witnessed?
7 A Just in that year of '72?
8 Q Yes.
9 A Maybe two.
10 Q How many in Ogden?
11 A Just in the year of '72?
12 Q Yes.
13 A Maybe the same, two or three.
14 Q Tulsa?
15 A Approximately the same in that year.
16 Q And the other location that you mentioned was
17 where?
18 A Tulsa, Ogden, Beaver and --
19 Q Beaver where?
20 A Beaver, Utah.
21 Q Is there a Temple there?
22 A Yes, there is. There is a burial ground there.
23 Q And in '72 how many did you witness? How many
24 human killings did you witness there?
25 A About the same as the other places.

1 Q Two?

2 A Two, three.

3 Q Have you made other trips carrying drugs since your

4 first trip from Indianapolis, Indiana to Salt Lake City, Utah?

5 A Yes, I have.

6 Q How many other trips have you made?

7 A God, I can't count them. Quite a few.

8 Q Were you engaged, full time, in drug transportation

9 after this first trip from Indianapolis, Indiana to Salt Lake

10 City, Utah?

11 A Yes, I was.

12 Q Would you describe to us where many of the other

13 trips were made in transporting drugs?

14 A Well, I drove for Acon Auto Transport Company; which

15 is a national automobile transport company agency and I drove

16 for Glen Richard, Harry Shaffer, Darold Spencer, Mr. Commings

17 and, also, Peter Simons, Troy.

18 Q Troy who?

19 A I don't know his last name.

20 Q Did each of those men you named give you specific

21 directions, person-to-person on the transport of drugs?

22 A Yes, they did. I had bill of ladings for the cars

23 that I was driving. The cars were taken to Acon, the auto

24 transport company and they were personal cars of other people.

25 They wasn't always cars belonging to Acon Auto Transport. That

1 agency is something like an auto drive-away, if you know what
2 that is.

3 Q Where are their headquarters?

4 A Their main headquarters?

5 Q Yes.

6 A Is in Salt Lake City and Denver.

7 Q For each of those men named, would you give us
8 their city where they reside?

9 A Harry Shaffer is District Manager of Acon Auto
10 Transport in Tucson, Arizona; Glen Richard is District Manager
11 and co-owner of Acon Auto Transport and Richard's Finance in
12 Denver, Colorado --

13 MR. REMAKLUS: I'm going to interrupt because I don't
14 think there's been any foundation laid as to how he has
15 personal knowledge of these things. He could get that off
16 driving down the street on a store window or out of phone books.

17 THE COURT: Yes, I'm going to sustain the objection.

18 Q BY MR. ROBINSON: Tom, you had testified that you
19 had received personal instructions, yourself, from each of these
20 men, is that right?

21 A That's true.

22 Q And can you recall in sequence which person you
23 first got instructions from, or transportation of drugs and
24 where you got those instructions?

25 MR. REMAKLUS: Your Honor, I would like to make an

1 observation in support of a possible objection.

2 These are just names from someplace and before the
3 names are all lumped together with -- in general terms as
4 Salt Lake, Tulsa and so on, before the names are mentioned.
5 We don't know who these people are. I think the circumstances
6 must be -- foundation must be laid before this type of
7 testimony can be admitted.

8 THE COURT: Yes, I'm going to sustain the objection.
9 I don't see any relevancy to this anyway, Mr. Robinson, of
10 these kinds of details.

11 MR. ROBINSON: All right, sir.

12 Q BY MR. ROBINSON: Tom, the employment that you have
13 described in running drugs, was this employment connected to
14 your bikers' group?

15 A Yes, it was.

16 Q Was there any control exerted by the bikers'
17 group, the Outlaws or Council, over the approval or
18 disapproval of transportation of drugs?

19 MR. REMAKLUS: I'll object on the ground that it's
20 irrelevant and immaterial.

21 THE COURT: Overruled.

22 THE WITNESS: National Council would have to take all
23 national precedent at the board meetings. They would have to
24 agree on which Chapters was doing the drug running.

25 Q BY MR. ROBINSON: And were you active, specifically,

1 yourself, controlled by that Council?

2 A. Yes, they were.

3 Q. Who is LeRoy Purdle?

4 A. He is the guy that I met in San Francisco when I
5 went out there on a trip when I forged the checks on my parents'
6 -- he's the guy that a friend that I met, that still is a
7 friend now, and he still lives in San Francisco who taught me
8 a lot of things about living on the streets.

9 Q. Such as what?

10 A. Such as plugging telephone booths, where to go to
11 get free meals, where to go to get free clothing; different
12 things such like as that.

13 Q. Did he ever teach you how to hot wire automobiles?

14 A. No, Ramsey taught me that.

15 Q. That's "Crazy Larry" Ramsey?

16 A. No, his little brother, Raymond.

17 Q. All right. And who is Tom Carey?

18 MR. REMAKLUS: Object to that on the ground that no
19 foundation has been laid for the introduction of these names
20 into evidence.

21 THE COURT: This appears to be a foundation question.
22 Overruled.

23 THE WITNESS: Tom Carey is one of the people that I
24 killed who kidnapped my second wife, Tomisene.

25 Q. BY MR. ROBINSON: Where did you meet Tomisene?

1 I met Tomisene in San Francisco, California
2 October of 1972.

3 Q What were the circumstances of your meeting her?

4 A She was a runaway from home and she needed a place
5 to stay.

6 Q Did you and Tomisene commence living together
7 immediately after your meeting?

8 A Well, she stayed at my place for awhile and then we
9 started living together later on.

10 Q And what were the circumstances of Tom Carey's
11 involvement with you and Tomisene?

12 A Well, Tom Carey had offered me a job of driving a
13 car for him for \$20 a day and he was also selling watches that
14 are, oh, they are supposed to say "Hamilton" but it's not
15 really Hamilton watches, the H-A-R and the "R" is corrected
16 so it looks like an "M" and people -- they will just take a
17 glance at them and look at them and it looks like they say
18 "Hamilton" but they don't and they cost like \$20.50 and we
19 were selling them for \$50 and 75 bucks.

20 This Tom Carey, why, -- while I was driving for
21 him, he was with us. We went into a bar and he took Tomisene
22 when I was inside a bar and we got in a fight and he took
23 Tomisene. When he got back in the car he told her that I had
24 gotten busted and he kidnapped her and took her to
25 Garberville, California.

1 Q When did you next hear from Tom Carey after that
2 episode?

3 A Hear from him or see him?

4 Q Hear from him.

5 A Well, after he had kidnapped Tomi I went to the
6 State Police. I had an all points bulletin put out for the
7 car that he was driving with Tomisene and after he got to
8 Garberville he had raped Tomisene. She had called me --

9 MR. REMAKLUS: I'm going to object to this and ask that
10 this be stricken. They are clearly facts that are -- if they
11 happened, were not in the presence of this defendant.

12 THE COURT: Sustained.

13 Q BY MR. ROBINSON: Leaving out that portion, then,
14 Tom, when did you actually hear from him?

15 A When he called me and told me where Tomisene was
16 at.

17 Q And from his information did you go to get Tomisene?

18 A Yes, I did.

19 Q And did Tomisene advise you what occurred after
20 she was taken by Tom Carey?

21 A Yes, she did.

22 MR. REMAKLUS: I'll object.

23 THE COURT: Overruled.

24 Q BY MR. ROBINSON: When did you next see Tom Carey?

25 A When I killed him.

1 Q Where was that and when?
2 A In San Francisco, California and the first part --
3 February of 1973, right before me and Tomi got married.
4 Q And when were you and Tomisene married?
5 A March 3rd, 1973.
6 Q Where?
7 A Portland, Oregon.
8 Q Was Tomisene originally from the Portland, Oregon
9 area?
10 A Yes, she was.
11 Q What means and method did you use to kill
12 Tom Carey?
13 A I shot him.
14 Q With what kind of a weapon?
15 A I'm not positive right now.
16 Q Where did it take place in San Francisco?
17 A Oh -- over in Oakland; wasn't in San Francisco.
18 It was in Oakland at his house right beside the fabricating
19 company.
20 I think the street is 21st and Berkeley.
21 Q And after killing him did you attempt to dispose
22 of his body in any way?
23 A Nope.
24 Q Left it right there in his home?
25 A Yes.

1 Q Who was Paul Shrader?

2 A Paul Shrader was a person that I was supposed to

3 have killed and I was tried for in 1974 and acquitted.

4 Q Did you actually kill Paul Shrader yourself?

5 A No, I didn't.

6 Q Who did?

7 MR. REMAKLUS: I think we're getting into -- this is

8 hearsay, no foundation has been laid, certainly, for it, and

9 probably irrelevant anyway.

10 THE COURT: Objection sustained.

11 Q BY MR. ROBINSON: Tom, were you present when

12 Paul Shrader was killed?

13 A Yes, I was.

14 Q Where was he killed?

15 A Tucson, Arizona.

16 MR. REMAKLUS: I would again object on grounds of

17 relevancy.

18 THE COURT: Overruled.

19 Q BY MR. ROBINSON: Tucson, Arizona?

20 A Yes.

21 Q Who else was there at the time?

22 A Tomisene, my wife, was in our motel room. She

23 wasn't present at the time.

24 Q Anyone else present when Paul Shrader was killed?

25 A Sanchez.

1 Q Is that a nickname?
2 A That's his last name.
3 Q Do you know his first name?
4 A No, it's weird, though.
5 Q What method of means was used to kill Paul Shrader?
6 A He was stabbed 11 times, his throat was cut three
7 times, I think -- well, when I went to court in -- I was
8 charged with that murder and I went to trial for it and on the
9 autopsy report I think the coronor said that he died from --
10 MR. REMAKLUS: Object as to what the autopsy report
11 says.
12 THE COURT: Sustained.
13 Q BY MR. ROBINSON: Had you contacted Paul Shrader
14 for any particular reason or purpose?
15 A Yes, I had.
16 MR. REMAKLUS: Object on the grounds of relevancy here.
17 He said he didn't kill him but I think we're getting far
18 afield, Your Honor.
19 THE COURT: Yes, I'll sustain the objection.
20 Q BY MR. ROBINSON: Was Paul Shrader involved in
21 drug traffic?
22 A Yes, he was.
23 Q Had a contract been let by Council on Paul Shrader?
24 MR. REMAKLUS: Now, this calls for a conclusion and no
25 foundation has been laid.

1 THE COURT: Sustained.

2 Q BY MR. ROBINSON: Tom, had you personally received
3 instructions regarding the death of Paul Shrader?

4 A Yes, I had.

5 Q From whom?

6 A The National Council.

7 Q When and where?

8 A Before I left Denver, Colorado where I transported
9 a drug run in a '74 Chevelle and in the presence of --

10 Q Where did you transport the drug run to from
11 Denver?

12 A From Glen Richard, Acon Auto Transport office, to
13 Harry Shaffer's office in Tucson, Arizona.

14 Q Would you tell us the circumstances that occurred
15 then in Tucson -- or the delivery of that -- the drugs on that
16 drug run?

17 A Well, I delivered the car to --

18 MR. REMAKLUS: I think I'll object on the grounds it's
19 irrelevant, Your Honor.

20 THE COURT: Yes, I'm going to sustain the objection
21 unless you can show why it's relevant, Mr. Robinson.

22 I don't see any relevancy.

23 MR. ROBINSON: May I be heard outside of the presence of
24 the jury, Your Honor?

25 THE COURT: Yes. We'll take this up out of your

1 presence, ladies and gentlemen. If you remember the admonition,
2 do not discuss the case and keep your minds open.

3 (Jury left the courtroom.)

4 MR. ROBINSON: Your Honor, my feeling of the relevancy
5 of the Paul Shrader death amounts to a foundation for the
6 later killing of Sanchez that Tom himself will testify that he
7 did.

8 Further, the relevancy would be as to his being
9 tried for First Degree Murder in Tucson, Arizona and acquitted
10 March the 4th of 1974 for that killing.

11 It is in my appraisal and not only preliminary to
12 an almost immediately thereafter killing of Sanchez. But,
13 also relevant as to Tom's involvement with a previous charge
14 of murder against him in the State of Arizona and its results
15 and how those results were brought about.

16 THE COURT: Well, I don't know how all that's relevant
17 to this case.

18 MR. ROBINSON: The relevancy, Your Honor, still goes
19 to the total impact of this organization's involvement, his
20 taking contracts and how he himself became subject of contracts
21 on his life that caused him to ultimately come forth with a
22 voluntary statement admitting the deaths of Arnold and Bradford
23 when he, in fact, did not commit those.

24 MR. REMAKLUS: Your Honor, I think these series of
25 events are clearly irrelevant. I don't know whether -- I

1 don't see the purpose of them. I don't see the relevancy of
2 any deaths in Arizona as having any bearing on this charge and,
3 much less, how he got from place to place. This seems to be
4 an attempt to add names or flavor to the story.

5 I just can't see that -- in the representations
6 of Counsel that have been made so far that it ever has a
7 bearing or is relevant to what happened up in Valley County.

8 I think we're far afield, Your Honor.

9 MR. ROBINSON: Further, Your Honor, in regards to
10 foundation that, as a result of the Paul Shrader death, there
11 followed certain circumstances in Sanchez and while Tomisene
12 was hitchhiking back to meet with Tom, while he was incarcerated
13 in Tucson awaiting trial, his testimony will be, and his
14 foundation also for two others, that he killed in Tucson, both
15 that his testimony will describe as having raped Tomisene and
16 that he returned to Tucson to kill both of them and, basically,
17 the Shrader circumstance is a foundation to explain three
18 other deaths and the total involvement and impact all of it had
19 upon Tom's mind in regard to the forcible rapist against his
20 wife, Tomisene.

21 THE COURT: Well, I think I understand your theory of
22 those particular specific events, but I don't understand why --
23 what all the detail about the trial in Arizona and transactions
24 between these individuals has to do with those ultimate facts.
25 Why can't you get directly to those ultimate facts?

1 MR. ROBINSON: I will try to do so, Your Honor, with
2 more rapidity, but it's just that the circumstances of
3 Shrader's death seem to be a foundation laying area for the
4 immediately three circumstances after that.

5 That will also be explanations to several other
6 deaths that occurred after that.

7 MR. REMAKLUS: I just don't think that there are any
8 explanations that go from death to death. I think if Your Honor
9 is going to admit the ultimate statement that "I killed so and
10 so" and, then, if he asks him why then I suppose Your Honor
11 would admit that then we could go on to the next event and the
12 next ultimate fact. Of course, I don't think any of it is
13 relevant.

14 THE COURT: You haven't interposed that objection in the
15 past, Mr. Remaklus. That becomes a rather new objection.

16 MR. REMAKLUS: Well, I didn't think the story was going
17 to take this long, Your Honor.

18 MR. ROBINSON: Your Honor, I will attempt to go straight
19 to the Sanchez circumstances at suggestion of the State's
20 Prosecutor.

21 THE COURT: Yes, I don't see -- if I understand your
22 theory that you are presenting this as it bears on the mental
23 disease and defect events -- defense, and as it bears on the
24 truthfulness of the purported confession that's in evidence
25 here. But, it seems to me, under that theory you can go

1 directly to that in exactly the manner Mr. Remaklus suggests.
2 If he killed somebody he can say he did and then he can say
3 why he did and --

4 MR. ROBINSON: I'm attempting to do so, Your Honor, and
5 could we have a very short recess at this point?

6 THE COURT: Well, it's so close to noon, really, not
7 much point in taking another one unless we just take our noon
8 recess.

9 MR. ROBINSON: I was requesting for personal convenience,
10 Your Honor.

11 THE COURT: Well, bring the jury back in now and we'll
12 take our noon recess.

13 (Jury re-entered the courtroom, were admonished,
14 and noon recess taken.)
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1 WALLACE, IDAHO, THURSDAY, OCTOBER 16, 1975, 1:30 P.M.

2 (Jury re-entered the courtroom.)

3
4 THE COURT: Show the jurors are all present.

5 MR. ROBINSON: May I proceed, Your Honor?

6 THE COURT: Yes.

7
8 DIRECT EXAMINATION (Continued)

9 BY MR. ROBINSON:

10 Q Did you kill Sanchez?

11 A Yes.

12 Q When?

13 A Shortly after I was released -- shortly after I
14 was acquitted on the First Degree Murder charge in Tucson,
15 Arizona.

16 Q Where?

17 A In Victorville, California.

18 Q How did you kill Sanchez?

19 A In the same manner that he killed Paul Shrader.

20 Q And for what reason was he killed?

21 A I didn't feel that it was right the way that he
22 had killed Mr. Shrader. The instructions that we had when we
23 went to Mr. Shrader was only for information, not to kill him.

24 Q After being released from Tucson, Arizona and your
25 acquittal, where did you then go?

1 A I got my wife, Tomisene, out of the hospital
2 psychiatric unit in Tucson, Arizona and I took her back to
3 Portland, Oregon.
4 Q What did you then do?
5 A I returned -- Tomisene was in a psychiatric unit
6 in Portland, Oregon school hospital, I returned back to Tucson,
7 Arizona and killed two guys that had raped her.
8 Q Do you know either of their names?
9 A No, I don't.
10 Q The first one, how was he killed and where?
11 A In his house with a 12-gauge shotgun.
12 Q When?
13 A In March of 1974.
14 Q Did you dispose of that body?
15 A Yes, I did.
16 Q Where?
17 A Tucson, Arizona.
18 Q Anyone's in particular address?
19 A Yes, it is.
20 Q Whose?
21 A Julian Zambrowski.
22 Q Zambrowski? Who is Julian Zambrowski?
23 A He is a friend or -- well, not really a friend no
24 more.
25 Q What was his connection, if any, with you and these

1 killings?

2 A. He was a runner.

3 Q In Tucson?

4 A. He is -- was one of the runners for Acon.

5 Q How was the second man in Tucson killed?

6 A. I waited for him to get off work and followed him
7 with a friend of mine that was with me, driving a car. I shot
8 through his door and through the window with a .27 high powered
9 rifle.

10 Q Was his body disposed of in any way?

11 A. No, it was not.

12 Q Why did you kill those two men?

13 A. For raping my wife, Tomisene.

14 Q What was the date that you and Tomisene were
15 married?

16 A. March 3rd, 1973.

17 Q Was that following your release from custody in
18 Tucson?

19 A. Oh, no, that's -- my release from Tucson was
20 March 5, 1974.

21 Q All right. So, this was a full year later?

22 A. Yes, it was.

23 Q Where did you then go?

24 A. Back to Portland, Oregon.

25 Q For what purpose?

1 A. To be with my wife.
2 Q. How long did you stay there?
3 A. Well, I managed to get her out of the hospital and
4 I stayed there for a little while. Then I got busted on a
5 breaking and entering charge.
6 Q. In Portland?
7 A. Yes.
8 Q. Were you tried on that charge?
9 A. Well, they then dropped the charges down to theft
10 to -- by receiving stolen property and, after my wife got
11 shoved out the four stories, out the window, I was -- charges
12 were dismissed and I was sent to Oregon State Hospital.
13 Q. What do you mean your wife was shoved out a four
14 story window?
15 MR. REMAKLUS: Object to that as no foundation and
16 irrelevant.
17 THE COURT: Sustained.
18 Q. BY MR. ROBINSON: Where were you when this event was
19 supposed to have taken place?
20 A. Rocky Butte Jail in Portland, Oregon.
21 Q. And how did you come by any information that your
22 wife had been shoved out a window?
23 MR. REMAKLUS: Same objection, Your Honor.
24 THE COURT: Overruled.
25 THE WITNESS: The officers at the jail informed me and

1 at that time they thought my wife -- she was in intensive care
2 and they took me to the hospital to see her because they
3 thought she was going to die.

4 Q Was she able to tell you what happened?

5 A She was able to disclose to me some of the people's
6 names that had been involved there before they shoved her out
7 the window trying to get the information where three pounds --
8 or three kilos of heroin was stashed.

9 Q Prior to that time was Tomisene a user of
10 narcotics and dope?

11 A Yes.

12 Q During this period of time, Tom, were you placed
13 in the Oregon State Mental Hospital?

14 A Yes, I was.

15 Q For what reason?

16 A Well, when I found -- after I went over and seen
17 my wife in the hospital and seen the condition that she was in
18 I cut my arms inside of the jail. I don't know if it was,
19 really, a suicide attempt or not. I don't know what it was.

20 Q How long were you at the Oregon State Mental
21 Hospital?

22 A From March until April or May, I'm not sure.

23 Q Of what year?

24 A From April -- wait a minute, from April until
25 March or June -- wait a minute. My months are mixed up.

1 I stayed there from April until June or July, I'm
2 not sure.

3 Q Of 1974?

4 A Yes.

5 Q While there did you receive any psychiatric
6 treatment?

7 A Yes, I did.

8 Q What was the nature of that treatment?

9 MR. REMAKLUS: I'm going to object to this as calling
10 for a conclusion of the witness, Your Honor.

11 THE COURT: He can describe what happened to him in
12 terms of treatment. Overruled.

13 THE WITNESS: I was placed on medication and I underwent
14 a series of shock treatments.

15 Q BY MR. ROBINSON: Is that electroshock treatment?

16 A Yes.

17 Q And where is the Oregon State Hospital located?

18 A Salem, Oregon.

19 Q Prior to your being in custody there at the Oregon
20 State Hospital at Salem, had you used drugs and narcotics?

21 A Yes, I had.

22 Q To what extent?

23 A To the extent that I was put on the methadone
24 program.

25 Q I don't understand. What's a "methadone program"?

1 A. It's when a person gets strung out on heroin and
2 they are bringing them off of it.

3 Q. Had you used heroin?

4 A. Yes, I had, to some extent.

5 Q. What other type of drugs had you used?

6 A. Well, I have a friend working in the methadone
7 program. I was getting methadone and I'd use speed, marijuana,
8 acid, cocaine; about everything, I guess.

9 Q. What is "Acid"?

10 A. LSD.

11 Q. Is that drug taken in different forms?

12 A. Yes, it is.

13 Q. What are the forms that you took?

14 A. Mostly windowpane acid.

15 Q. And what does that mean?

16 A. Windowpane acid.

17 Q. Well, describe the appearance of the drug.

18 A. Looks like a piece of tape. You can compare it
19 with a piece of scotch tape, possibly, it's clear.

20 Q. And that's where the term "windowpane" comes from?

21 A. Yes, I guess.

22 Q. On your discharge -- excuse me, strike that.

23 During your custody of the Oregon State Hospital,
24 were you ever allowed weekend passes?

25 A. Yes, I was.

1 Q Did you commit any crimes while on weekend passes
2 from that institution?
3 A Yes, I did.
4 Q Specifically what crime?
5 A Murder.
6 Q Who and where?
7 A I completed the contract on Vivian Grant Robinson
8 in Sacramento, California, on -- that was on my last pass from
9 the State Hospital.
10 Q Last pass?
11 A Before I was released.
12 Q Do you recall the date that that occurred?
13 A Well, it was my last pass from the State Hospital,
14 so, compare it to that.
15 Q How did you carry out that contract?
16 A By strangulation.
17 Q Who gave you that contract?
18 A Come from National Council in -- and Peter Simons.
19 Q Why was Vivian Grant Robinson killed?
20 MR. REMAKLUS: I think this just calls for a conclusion,
21 speculation. I don't know that it's relevant.
22 THE COURT: Overruled.
23 THE WITNESS: Because of his drug involvement and that
24 he had taken a portion of money received for the drugs that he
25 had transported and was selling and didn't return it to the

1 National Council and the people that he was running the drugs
2 for.

3 Q After your discharge from the Oregon State
4 Hospital at Salem, where did you then go?

5 A I went back to Portland, Oregon.

6 Q And how long did you stay there?

7 A I stayed in Portland, Oregon until August of 1974.

8 Q Did you travel any from that location during that
9 period of time?

10 A I did some traveling, yes.

11 Q Did you kill JoJo?

12 A Yes, I did.

13 Q Is that a street name?

14 A Yes, it is.

15 Q What is the true name of JoJo?

16 A Right now I can't remember it right offhand.

17 Q What was his connection to you?

18 A He was a rival biker for one thing.

19 Q With what organization?

20 A He rode with the Vogels, out of --

21 Q Pardon?

22 A The Vogels out of El Cahon, California.

23 Q Where was he killed?

24 A In El Cahon, California.

25 Q When was he killed?

1 A Sometime during July or August. I'm not sure of
2 the date.
3 Q How was he killed?
4 A I shot him.
5 Q Pardon?
6 A I shot him.
7 Q With what type of weapon?
8 A A .32.
9 Q For what reason?
10 A Personal reasons.
11 Q And what were the personal reasons?
12 A One, his involvement with Tomisene and that he had
13 been on the contract that had come down to get the information
14 from her; where the drugs were located at and also that at that
15 time I thought him responsible for the death of my younger
16 brother; which I found out later that my younger brother wasn't
17 dead.
18 Q Did you kill Joe Daga?
19 A Yes, I did.
20 Q Where?
21 A Seattle, Washington.
22 Q When?
23 A I'm not sure of the month.
24 Q Is Joe Daga the true name of that person?
25 A No, it is not.

1 Q What is the true name of Joe Daga?

2 A I can't pronounce it.

3 Q Is it similar to that name?

4 A Yes, it is.

5 Q Would you describe the circumstances of the
6 killing of Joe Daga?

7 A Yes. They were -- him and another guy by the name
8 of Craneo were prospecting for -- trying to -- for three
9 different bike clubs at one time. National Council had ordered
10 the contract on both.

11 I was appointed to take the contracts, which I
12 accepted anyway and I also felt at that time that Daga was
13 responsible for Tomisene's accident.

14 Q Who else was with you when this killing took place?

15 A My brother-in-law.

16 Q His name?

17 A Ronnie Nelson.

18 Q What do you mean "brother-in-law"?

19 A My brother-in-law. My wife's sister's husband.

20 Q Tomisene's sister?

21 A Yes.

22 Q Where do they reside?

23 A In Seattle, Washington.

24 Q When Joe Daga was killed, besides yourself and
25 Rod Nelson being present, who else was present?

1 A. Craneo.

2 Q. Know his first name?

3 A. David.

4 Q. Describe what happened.

5 A. The first shots that I fired, I missed Craneo, I

6 believe, and hit him in the leg and, then, we took Daga to --

7 I can't pronounce the name of the lake, "Snoqualamish" -- I

8 can't say it.

9 Q. Suquamish?

10 A. Yes, it's out of Snoqualmie Pass. We took him

11 there and disposed of his body and later on took Craneo to

12 Beaver, Utah, where he was later killed there.

13 Q. How was Joe Daga's body disposed of?

14 A. In the lake.

15 Q. By what means?

16 A. By the sand bags.

17 Q. Tied to his body?

18 A. Yes.

19 Q. And Craneo, how was he disposed of?

20 A. He's at a burial ground in Beaver, Utah.

21 Q. And would you describe those burial grounds?

22 A. It's a person's relatives -- not relatives of mine,

23 but this person that I know. It's their orchard and they've

24 got different sections and these people are buried in -- Craneo

25 is buried in the seventh section, row three.

1 Q This friend of yours you are speaking of, is that
2 Jeannie?

3 A Yes, it is.

4 Q It's her parents' place?

5 A It's her parents' or grandparents', I'm not sure.

6 Q To your knowledge how many other people are buried
7 at that burial ground?

8 MR. REMAKLUS: Object on the ground it's irrelevant and
9 immaterial.

10 THE COURT: Sustained.

11 Q BY MR. ROBINSON: Had you lived for a period of
12 time at Beaver, Utah?

13 A Yes, I had.

14 Q And while there did you work?

15 A Yes, I did.

16 Q At what job?

17 A I was assistant manager at Al Bambie's Cafe in
18 Beaver.

19 Q And what period of time did you live there?

20 A Between September and the time of my arrest
21 December 29 of 1973 for the Paul Shrader murder.

22 Q During that period of time did you make any
23 drug runs?

24 A Yes, we did.

25 Q During that period of time did you go out of the

1 country into Mexico for obtaining drugs?

2 MR. REMAKLUS: I'd object on the grounds it's irrelevant.

3 THE COURT: Overruled.

4 THE WITNESS: Would you say that question again?

5 Q BY MR. ROBINSON: During that period of time did
6 you go out of the United States into Mexico to obtain drugs?

7 A You mean to New Mexico or Old Mexico?

8 Q Old Mexico.

9 A Yes, we did.

10 Q By what means did you travel?

11 A We flew in.

12 Q With whom did you fly?

13 A Peter Simons.

14 Q In whose plane?

15 A Peter Simons'.

16 Q From what point in the United States did you take
17 off and where did you land?

18 MR. REMAKLUS: Object on the ground of irrelevancy.

19 THE COURT: Sustained.

20 Q BY MR. ROBINSON: During this period of time, when
21 you lived at Beaver, Utah, did you fill any contracts for
22 Council and kill any persons?

23 A Yes, I did.

24 Q How many?

25 A Two.

1 Q And who were they?
2 A Two businessmen. I don't know who they were, one
3 from Aurora and one from Salt Lake City.
4 Q Aurora? What state?
5 A Colorado.
6 Q Did you kill a man by the name of Red?
7 A Yes, I did.
8 Q Where?
9 A I'm not sure which one you are talking about.
10 Q Does Red have a true name?
11 A Yes, but I'm not sure what it is. I'm not sure if
12 you are talking about the guy I killed in Las Vegas or
13 Jackson Hole, Wyoming.
14 Q Were there two persons that you killed that had the
15 name of Red?
16 A Yes.
17 Q And did you kill a person by the name of Red in
18 Wyoming?
19 A Yes, I did.
20 Q Where in Wyoming?
21 A Jackson Hole, Wyoming at a dude ranch.
22 Q When?
23 A I don't remember the date.
24 Q Was the dude ranch a Satanic Temple?
25 A Yes, it is an outside Temple there.

1 Q Did you attend the Satanic Cult ceremonies there?
2 A Yes, I did.
3 Q During that period of time in your visit there,
4 did you witness any sacrifices of human beings?
5 MR. REMAKLUS: I'm going to object on the ground it's
6 irrelevant and also no foundation has been laid.
7 THE COURT: Overruled.
8 THE WITNESS: Yes, I did.
9 Q BY MR. ROBINSON: How many different human beings?
10 A I can't be sure.
11 Q Do you have any number at all that would be proper
12 that you actually witnessed yourself?
13 A No, I wouldn't want to say.
14 Q How was Red killed?
15 A I shot him.
16 Q With what kind of weapon?
17 A A .270 high powered rifle.
18 Q Who else was present when that killing took place?
19 MR. REMAKLUS: I'd object on the ground of relevancy,
20 Your Honor.
21 THE COURT: Overruled.
22 THE WITNESS: Waco, a friend.
23 Q BY MR. ROBINSON: Pardon?
24 A A friend. Larry Johnson, Waco.
25 Q His true name is Larry Johnson?

1 A. I believe so.

2 Q. And "Waco" is his street name?

3 A. Yes.

4 Q. Why was Red killed?

5 A. I'm confused right now on that.

6 Q. Was that a personal or contract?

7 A. I'm confused on the two different guys because one

8 was a contract and one was personal.

9 Q. All right. Did you kill Billy Dean?

10 A. Yes.

11 Q. Where did that killing take place?

12 A. In the church that I was working at as a sexton in

13 Portland, Oregon.

14 Q. When?

15 A. Sometime in August of 1974.

16 Q. Would you describe the circumstances?

17 A. Yes. I called some friends, the Hilbys and asked

18 to speak to Linda Crandall. I then advised her to ask

19 Gene Hilby if he would come over; that I was having some

20 problems.

21 I also advised her that if anything was said that

22 their lives would be in danger.

23 Q. Then what happened?

24 A. Then Mr. Hilby come over to the church, I met him

25 outside. He had a rifle in his truck, I took it without his

1 permission and went back upstairs and shot Billy Dean.

2 Q Where in the church did this killing take place?

3 A In what they called the guild room; something
4 like that.

5 Q Did you have quarters in the church yourself?

6 A Yes, I did.

7 Q And where in relationship to the guild room were
8 your quarters?

9 A About three doors down.

10 Q Why did you kill Billy Dean?

11 A Because one thing, he was involved with Tomisene
12 on her being pushed out the window. Also that he was, at the
13 time that I had the rifle pointed at him, he made a move like
14 he was going for his gun when I was asking him where the
15 drugs were at that he had brought into town from Anchorage,
16 Alaska and I shot him through the heart.

17 Q Did you dispose of that body?

18 A Yes. I wrapped it in a blanket and took it and
19 laid it on my bed in my bedroom.

20 Q Did anyone aid and assist you in doing that?

21 A No.

22 Q Have you in the past told a different version of
23 that set of circumstances?

24 A Yes, I have.

25 Q Are you presently covering up and telling a

1 falsified story?

2 A. To an extent, yes, I am.

3 Q. Did you kill Jane Ramsamoog?

4 A. Could I have a drink of water?

5 THE COURT: I'll get that for you.

6 Q. BY MR. ROBINSON: Where did you kill Jane?

7 A. Where did I kill her or "did I kill her"?

8 Q. Did you kill Jane Ramsamoog?

9 A. No, I didn't.

10 Q. Do you know, yourself, where she was killed?

11 A. Yes, I do.

12 Q. Were you present when she was killed?

13 A. Yes, I was.

14 Q. Where was she killed?

15 A. In Salem, Oregon at the grocery store.

16 Q. By whom?

17 A. I won't say.

18 Q. For what reason was she killed?

19 A. For what reason was she killed?

20 Q. Yes.

21 A. For drugs, was one of the reasons. But, the

22 other reason, I think -- I really can't explain it.

23 Q. All right. Did you kill Gordon Stanton?

24 A. Yes, I did.

25 Q. Who was Gordon Stanton?

1 A. Gordon Stanton was a Union organizer out of
2 Las Vegas, Nevada; for organizing and trying to get casino
3 employees into a Union. He was also a friend of Peter Simons
4 and one of his main dealers for drugs.

5 Q When did you kill him?

6 A. If the dates -- I think I have got the dates right,
7 I think it was August 22nd, 1974.

8 Q Where?

9 A. In Wells, Nevada.

10 Q Would you describe the circumstances?

11 A. Yes. I got a contract from Peter Simons to kill
12 Mr. Stanton and also had been passed down from Council.

13 I was followed out with -- I was in the car with
14 Mr. Stanton and was followed out by Peter Simons and some of
15 his people that I'd rather not mention and we got pulled over
16 by a State Police for driving on the wrong side of the highway.
17 After the State Police checked us out and left, the car
18 wouldn't start again because it was hot. So, when they pulled
19 up behind us, Peter Simons and these other people, then I took
20 Gordon Stanton out into the desert and shot him with a .44
21 magnum.

22 Q How many times did you shoot him?

23 A. Three times.

24 Q Why was he killed?

25 A. For trying to get the casino employees into a

1 Union and also because of his drugs and keeping money that
2 was supposed to went to National Council and to Peter Simons.

3 Q Did you kill Charles Thomas Miller?

4 A Yes, I did.

5 Q When?

6 A Shortly after I killed Gordon Stanton.

7 Q By "shortly" how many days?

8 A Maybe one or two, I'm not real sure.

9 Q Where did you kill him?

10 A In Good Springs, Nevada at Blue Diamond Hot Springs.

11 Q Where is that located? In relationship to
12 Las Vegas.

13 A Well, it's about ten or 12 miles from Jean, and
14 Jean, I think, is 36 miles from Las Vegas.

15 Q Why was Charles Thomas Miller killed?

16 A Well, after I got the contract on Gordon Stanton
17 they sent Charles Thomas Miller in behind -- wait a minute.
18 After I got the contract on Stanton to kill Stanton, they sent
19 Charles Thomas Miller as a backup to hit me and I found out
20 about it so I wasted him.

21 Q And how did you kill him?

22 A A friend of mine had got him -- took him up to the
23 mines and he thought that he was going to be able to have sex
24 with her and, when he was pulling down his pants I shot him.

25 Q Did you kill Rick McKinzie?

1 went back and checked and Rick was still alive so he said,
2 "Either waste him or I'll report you to Council." So, I
3 in turn shot Rick two more times, went back to the car, drove
4 about 100 yards, Waco reloaded my gun and I stopped and he
5 asked me what I was doing. I said that I knew that he had
6 set Rick up and I wasted him too.

7 Q With the same .44?

8 A Yes, I did.

9 Q Did you dispose of either of those bodies from the
10 locations where they fell?

11 A I put them both in the same ditch, the ravine that
12 they was in.

13 Q Where did you go following that set of circumstances?

14 A I'm not sure where I went.

15 Q How did you communicate, or contact, Council or
16 Council contact you?

17 A Through Peter Simons.

18 Q Did you have occasion to be in New Mexico during
19 the latter part of August or during September, 1974?

20 A Yes, I did.

21 Q What was the purpose of your being in New Mexico?

22 A To locate some drugs that had been stashed there.

23 Q For yourself or someone else?

24 A You mean were the drugs for myself?

25 Q Yes.

1 A. No, they wasn't for myself, they was for our
2 organization.

3 Q Were any persons killed while you were in
4 New Mexico?

5 A Yes, three Mexican guys.

6 Q Did you kill them?

7 A. Yes, I did.

8 Q Do you know their names?

9 A. Nope.

10 Q Would you describe the circumstances of those
11 three men's death -- were they men?

12 A Yes, they were men.

13 Q Would you describe the circumstances?

14 A. Well, I had a friend with me and we met them first
15 at the gas station and we was going to their clubhouse. They
16 were Banditos from the Bandito motorcycle club and --

17 Q You mean the three Mexican fellows that you killed
18 were members of the Bandito group?

19 A. Yes, they were prospects.

20 Q All right. And then what happened?

21 A. And -- well, they started talking Spanish and
22 stuff and I couldn't understand what they were saying so we
23 stopped in front of this place on old 66 where the new highway
24 turns into the old highway again and from there it was -- it's
25 kind of blurry. I remember firing shots through the side of

1 the window of the driver's side.

2 Q Are you sure that all three of those men were
3 killed?

4 A Yes, they were.

5 Q Did you dispose of their bodies?

6 A Yes, we did.

7 Q "We"? You say a friend?

8 A Well, two friends.

9 Q And was one of those friends female?

10 A Yes.

11 Q Or were both of them females?

12 A No, just one of them.

13 Q Would you identify either one of them?

14 A Not the female.

15 Q And the male?

16 A Was a guy by the name -- his street name was
17 John Boy. His real name is John Boran.

18 Q Boran?

19 A Boran, yes.

20 Q Did he participate in those killings?

21 A Yes, he did.

22 Q Where did you dispose of those three men?

23 A At -- by the corral, horse corral. Then, at a
24 later date we went back and moved them and took them to Blue
25 Lake -- wait a minute, Blue Water State Park in Grandee,

1 New Mexico.

2 Q Did you kill Tom Sage; also known as Jerry?

3 A No. I killed a Jerry, but I'm not sure if his
4 name -- I'm not sure of it's Tom Sage or not. I thought it
5 was at the time, but I'm not sure.

6 Q When was Jerry killed?

7 A In October.

8 Q Of 1974?

9 A I think so, yes.

10 Q Where?

11 A In Barstow, California at Calico Ghost Mines.

12 Q Who also was present when that killing took place?

13 A Myself, John Boran, a female -- two females and I
14 think that was all at that time.

15 Q What were the circumstances of that killing?

16 A They were supposed to know where the drug stash
17 was in New Mexico and they said they had it stashed there at
18 Calico Ghost Mines and they didn't have them.

19 Q Was one of the girls also killed at the same time
20 Jerry was killed?

21 A Yes, they were.

22 Q Before or after Jerry was killed?

23 A Well, the female that was with me shot Donna and
24 when Donna fell Jerry went for -- he had a .25 automatic and
25 when he went for the automatic I shot him.

1 Q Were their bodies disposed of?
2 A Yes, they were.
3 Q By you?
4 A Yes.
5 Q How?
6 A By taking them into the mines, to that pit and
7 dropping them in and, then, dropping rocks down on top of them.
8 Q Did you kill John Boy?
9 A Yes, I did.
10 Q Where?
11 A Same place.
12 Q How long after the killing of Jerry?
13 A It was right after that in the opposite mine
14 because, when we removed those bodies from the three Mexicans
15 from New Mexico from the original point to the Blue Water State
16 Park, he had killed an elderly couple without instructions from
17 Council or myself; which I wouldn't have ordered that kind of
18 killing anyway. But -- so, when they were at the mines I just
19 wasted him too.
20 Q Was that on an order from Council?
21 A For me to kill John Boy?
22 Q Yes.
23 A No, it wasn't.
24 Q Was that personal?
25 A Yes.

1 Q Your own decision?
2 A Yes.
3 Q Did you kill Jerry, a newscaster?
4 A Which newscaster?
5 Q Did you kill more than one newscaster?
6 A Yes.
7 Q Where was that first?
8 A In Missoula, Montana.
9 Q When?
10 A I think it was in July or September, somewhere
11 along there. It was in the summer.
12 Q A year ago this past summer?
13 A Yes. That was the first newscaster.
14 Q Where was he from originally?
15 A I think his name was Terry and he was from
16 Farmington, New Mexico.
17 Q Why was he killed?
18 A I can't remember right now.
19 Q You recall whether or not that was a personal
20 decision of your own or Council?
21 A I believe Council had something to do with it but
22 I'm not really sure on the personal aspects of it.
23 Q What were the circumstances at the time of his
24 killing?
25 A How was he killed, you mean?

1 Q Yes.

2 A We were riding in a car and we were drinking and
3 a hemorrhoid suppository was dropped in his drink and he drank
4 it and it closed his windpipe off.

5 Q And did he choke on that?

6 A Yes, he did.

7 Q Did that kill him?

8 A Well, it stopped him from breathing.

9 Q Was he shot or any other means used to kill him?

10 A Not the first newscaster.

11 Q Was he disposed of?

12 A Yes, he was.

13 Q How?

14 A We wrapped him in a black tarpaulin, sealed it at
15 the ends and dumped him into -- I think it was the Lolo River,
16 Lolo Creek in Missoula.

17 Q How far out of Missoula?

18 A By the bridge, I'm not sure.

19 Q Did you kill Jeff Ozzio?

20 A Yes, I did.

21 Q Who was Jeff Ozzio?

22 A I'm not sure exactly who he was.

23 Q When did you kill him?

24 A I'm not sure. I think it was about the same time
25 that I killed the second newscaster.

1 Q And when was that?
2 A In October.
3 Q Of 1974?
4 A Yes.
5 Q Where?
6 A In Missoula, Montana.
7 Q What were the circumstances of Jeff Ozzio's death?
8 A Council had come down with a contract on him.
9 Q For what reason?
10 A I'm not sure exactly what the reason was.
11 Q Where did the killing of Jeff Ozzio take place?
12 In Missoula?
13 A At the bridge on Lolo Creek. As you are coming
14 out of town, before you take Route 12 that takes you to
15 Lewiston, Idaho.
16 Q And how was he killed?
17 A By gunshot.
18 Q What type of weapon?
19 A I think it was a .32 automatic.
20 Q Did you dispose of his body?
21 A Yes, I did.
22 Q Where?
23 A Into the creek, Lolo Creek.
24 Q Did you kill Chief, also known as Walter Henshaw?
25 A Yes, but I'm not sure if that's his real name or

1 not.

2 Q You knew him by "Chief"?

3 A Yes.

4 Q Was that his street name?

5 A That was his bike name of the Banditos.

6 Q He was a biker?

7 A Yes, he was.

8 Q What was the reason for killing Chief?

9 A Well, main reason was his involvement with Tomisene's
10 accident and the information that they tried to force from her.

11 The second reason was that we was in a bar called
12 The Trading Post drinking and we went outside and we fought,
13 the first time, and he beat me up, went out again the second
14 time, he beat me up again, went out the third time and I
15 decided I wasn't going to let him beat me up again so I shot
16 him.

17 Q Did you dispose of his body?

18 A Yes, I did.

19 Q Where?

20 A At a construction site outside of Missoula, Montana.

21 Q And you say that was near the time that you killed
22 the second newscaster?

23 A Yes.

24 Q Was the second newscaster's name Carey?

25 A I believe so.

1 Q Where was he killed?
2 A At the bridge on Route 12 on Lolo Creek.
3 Q Why was he killed?
4 A I'm not sure right now, I'm not --
5 Q Were either of those newscasters dealing in drugs?
6 A They were both into drug traffic.
7 THE COURT: We'll take a ten-minute recess. If you
8 will remember the admonition, ladies and gentlemen, don't
9 discuss the case and keep your minds open.
10 (Recess taken.)
11 THE COURT: Show the jurors are all present.
12 MR. ROBINSON: May we proceed, Your Honor?
13 THE COURT: Yes.
14 Q BY MR. ROBINSON: Tom, have you killed other
15 individuals, human beings that we have not named and fully
16 described?
17 A Yes.
18 Q Are you personally acquainted with one
19 Anton Szandor LaVey?
20 A Yes, I am.
21 Q When did you first meet Anton LaVey?
22 A When I joined the Satanic Church in 1968.
23 Q And where was that?
24 A In San Francisco, California.
25 Q On how many occasions since that time have you been

1 in the personal presence of Anton Szandor LaVey?

2 MR. REMAKLUS: I'm going to object on the ground that
3 this is irrelevant.

4 THE COURT: Well, at this time it appears to me
5 preliminary and I don't know where Counsel is going, but I'll
6 let him proceed until we find out.

7 MR. ROBINSON: Thank you, Your Honor. I assure the
8 Court that this is preliminary.

9 THE WITNESS: Would you say that question again, please?

10 Q BY MR. ROBINSON: On how many different occasions
11 have you personally been in the presence of Anton Szandor LaVey?

12 A Possibly five times.

13 Q And what were the occasions of these meetings?

14 A The -- I think two or three of them were rituals
15 on sacrifices. One other occasion was at a gathering, a
16 meeting of the Priests under LaVey and another time, the other
17 occasion was when I was ordained as a Satanic Priest.

18 Q When and where were you ordained as a Satanic
19 Priest?

20 MR. REMAKLUS: Object to this as irrelevant, Your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: The Satanic Church of LaVey in
23 San Francisco, California.

24 Q BY MR. ROBINSON: In the ceremony of being ordained
25 a Satanic Priest, must you swear allegiance to Satan?

1 MR. REMAKLUS: Again I'll object as being irrelevant.
2 THE COURT: Overruled.
3 THE WITNESS: You make your pact with Satan, yes.
4 Q BY MR. ROBINSON: And what pact is that?
5 A Well, you --
6 MR. REMAKLUS: I'd offer the same objection.
7 THE COURT: Overruled.
8 THE WITNESS: Would you ask me that question again. He
9 got me confused.
10 Q BY MR. ROBINSON: What pact do you make with Satan?
11 A It's where you volunteer your soul to Satan and to
12 do Satan's work.
13 Q And did you?
14 A Yes, I did.
15 Q On the three occasions that you mentioned that you
16 were in the presence of Anton Szandor LaVey at sacrificial
17 ceremonies, were human beings actually killed in those
18 ceremonies?
19 A Yes, they were.
20 MR. REMAKLUS: Again I would object on the grounds of
21 relevancy.
22 THE COURT: Overruled.
23 THE WITNESS: Yes, they were.
24 Q BY MR. ROBINSON: And who performed the killing?
25 A LaVey himself.

1 Q Did you ever aid and assist in the disposing of any
2 of the sacrificial victims?

3 A Yes.

4 MR. REMAKLUS: Object to this on the ground it's
5 irrelevant and immaterial and not probative of any issue in
6 this case.

7 THE COURT: Overruled.

8 THE WITNESS: Yes, I have.

9 Q BY MR. ROBINSON: How many?

10 A Where at?

11 Q We're only talking about the circumstances where
12 LaVey was present. Where was that?

13 A The Temple, the Satanic Church.

14 Q The Temple?

15 A It was at the Satanic Church.

16 Q All in San Francisco?

17 A Yes.

18 Q How many did you assist in disposing of?

19 A One or two of them, I'm not sure.

20 Q Where?

21 A The bodies were transported to another Temple in
22 Malibu, California and at a later date was moved to Point Magoo,
23 California.

24 Q Where is the Temple located in Southern California?

25 A Escondido Retreat, McCoy's Ranch.

1 Q Have you been in attendance at sacrificial deaths
2 at McCoy's Ranch?

3 A Yes, I have.

4 Q How many human beings were subject of being
5 sacrificed and killed during those ceremonies that you attended?

6 A Possibly between 12 and 15.

7 Q Who killed those individuals?

8 A It would depend upon the Priest that was in charge
9 of that ceremony.

10 Q Do they have different Priests?

11 A Yes, they do.

12 Q Are these Priests connected to the bikers?

13 A Some of them are, yes.

14 Q Did you aid and assist in disposing of any of the
15 sacrificial death victims from McCoy's Ranch?

16 A Yes, I did.

17 Q How many?

18 A About the full number that I witnessed sacrificed
19 there.

20 Q And where were they disposed of?

21 A On the ranch itself at the burial ground and, at a
22 later time, they was moved to Point Magoo.

23 Q Have you ever acted as a Priest in the sacrificial
24 death ceremony?

25 A Yes, I have.

1 Q And have you killed a sacrificial victim?
2 A Yes, I have.
3 Q How many?
4 A Three.
5 Q Where did those take place?
6 A One was in Ogden, Utah, another was in Tulsa and
7 another was in Wichita Falls.
8 Q Wichita Falls, Texas?
9 A No, I think Wichita Falls, Kansas, I think it is.
10 Q Wichita, Kansas, without the "Falls" on it?
11 A Yeah, I think that's it.
12 Q Have you attended any of the Satanic Cult rituals
13 in Ohio?
14 A Some of them, yes.
15 Q Have you ever acted as a Priest in any of those
16 rituals in that state?
17 A No, I haven't.
18 Q Have you attended any of the Satanic Cult rituals
19 in the State of Colorado?
20 A Yes, I have.
21 Q Have you ever acted as a Priest in that state?
22 A No, I haven't.
23 Q Have you attended the Satanic Cult's rituals in
24 the State of Montana?
25 A Yes, I have.

1 Q And where is that located?
2 A The ritual site?
3 Q Yes.
4 A The Temple?
5 Q Yes.
6 A It's in Missoula. It's up outside of Missoula. I
7 can't explain it to you.
8 Q Is there a Temple in the State of Washington?
9 A There was.
10 Q Where?
11 A In Burien.
12 Q Have you attended Satanic Cult sacrificial ceremonies
13 at Burien, Washington?
14 A Yes, I have.
15 Q Is this the Temple that you located for the
16 King County Homicide Division?
17 MR. REMAKLUS: Object to this.
18 THE COURT: Sustained.
19 Q BY MR. ROBINSON: Were there sacrificial victims
20 that were killed at Burien, Washington at that Temple?
21 A Yes, there were.
22 Q In your presence?
23 A Yes, there were.
24 Q Did you aid and assist in the disposing of the
25 victims?

1 A Yes, I did.

2 Q Are there other locations of different Temples that
3 you have attended Satanic Cult sacrificial services that we
4 haven't named already?

5 A Yes, I think so, but I'm not sure.

6 Q Who are the victims?

7 MR. REMAKLUS: Object to that as being no foundation
8 laid whatsoever.

9 THE COURT: Sustained.

10 Q BY MR. ROBINSON: Tom, how are the victims chosen?

11 MR. REMAKLUS: I must have, unless he can lay a
12 foundation as to time and place and victim, Your Honor. I'm
13 going to object every time.

14 THE COURT: Yes, I'm going to sustain the objection
15 unless you lay a foundation of personal knowledge and
16 participation.

17 MR. ROBINSON: All right, sir.

18 THE COURT: I'm not going to allow hearsay explanation
19 of how they are picked.

20 Q BY MR. ROBINSON: On those three that you were the
21 Priest, who chose the victim?

22 A The people that was sacrificed that come from the
23 Church, from LaVey.

24 Q By direction?

25 MR. REMAKLUS: I'm going to object. I have to object

1 to that as being -- it isn't even a question.

2 THE COURT: I'm going to sustain the objection.

3 Q BY MR. ROBINSON: What was your reason for performing
4 the ceremony?

5 A It was my duty as a Priest under LaVey's orders to
6 perform the rituals.

7 Q And before you commenced the ritual, did you know
8 in advance who the victim was going to be?

9 A No, I didn't.

10 Q Are the bikers' organizations also involved in
11 organized prostitution?

12 MR. REMAKLUS: I'm going to object on the ground it's
13 irrelevant and immaterial.

14 THE COURT: Yes, I'm going to sustain the objection.

15 Q BY MR. ROBINSON: Who is Gary Hart?

16 A Senator-elect from Colorado.

17 Q Do you know him personally?

18 A Yes, I do.

19 Q When did you first meet Gary Hart?

20 A Through Glen Richard and in 19 -- I believe it was
21 '73.

22 Q What were the circumstances of your meeting with
23 Richard and Gary Hart?

24 A On one occasion it was for a drug transaction. On
25 another occasion it was at a Satanic ritual.

1 Q Did any drug transaction involving Gary Hart take
2 place in your presence?

3 MR. REMAKLUS: I'd say that there's no foundation laid
4 for that, Your Honor.

5 THE COURT: Sustained.

6 Q BY MR. ROBINSON: Why were you in the company of
7 these two men at that time?

8 MR. REMAKLUS: I think this calls merely for a conclusion
9 of the witness and I so object, Your Honor. I think it's
10 irrelevant.

11 THE COURT: Yes, I don't see how this is relevant to
12 the theories that I'm letting you go into these matters on,
13 Mr. Robinson, at all.

14 If it's relevant, I'd suggest you get to the point
15 where it becomes relevant.

16 MR. ROBINSON: All right, sir.

17 THE COURT: Then, if you need to back up you can. But,
18 I don't see any relevance at all at this point.

19 Q BY MR. ROBINSON: Tom, when you were apprehended
20 in Glenns Ferry, Idaho, where were you then headed?

21 A To Denver, Colorado.

22 Q Why?

23 MR. REMAKLUS: I think that's irrelevant and immaterial.

24 THE COURT: Overruled.

25 THE WITNESS: Why I was headed for Denver, Colorado?

1 Q BY MR. ROBINSON: Yes.
2 A I had a contract on Senator Hart.
3 Q Who gave you that contract?
4 A Come from National Council and Peter Simons.
5 Q Where did you get that contract?
6 A From Peter Simons.
7 Q Where were you and when was that contract conveyed
8 to you?
9 A In Fresno, California.
10 Q Why were you given this contract?
11 MR. REMAKLUS: This calls for conclusion of the witness,
12 Your Honor.
13 THE COURT: Yes, I'll sustain the objection.
14 Q BY MR. ROBINSON: Do you know the reason that this
15 contract was given to you?
16 A Yes.
17 Q Who told you that reason?
18 A Peter Simons, Glen Richard.
19 Q And what was that reason?
20 MR. REMAKLUS: Again I'll object on the ground it's
21 irrelevant.
22 THE COURT: Overruled.
23 THE WITNESS: The reason was, during his campaigning he
24 was campaigning against the use of drugs. That was part of
25 his campaign before he became Senator-elect and he had violated

1 National Council's rules under their statutes and --

2 MR. REMAKLUS: This calls -- I'm going to interrupt this.
3 Calling for conclusion of the witness, "violating rules" that
4 we know nothing about or who made the rules, or if this --

5 THE COURT: The question he's answering was what he was
6 told. I will instruct you to limit yourself to that answer,
7 Mr. Creech, because this is still what you were told, not
8 anything else.

9 THE WITNESS: Would you ask me the question again, then?

10 Q BY MR. ROBINSON: Yes. What reason was given to
11 you for the contract to kill Gary Hart?

12 MR. REMAKLUS: Object to the form of the question. I
13 think the question -- and he's asking for reasons and I have no
14 objection if he said what was said, Your Honor. But, he's
15 asking for a narrative.

16 THE COURT: I so interpret the question. Overruled.

17 THE WITNESS: Sorry, but would you ask me again.

18 Q BY MR. ROBINSON: What was told to you as the reason
19 for giving you the contract on Gary Hart?

20 A On the last drug transactions which Senator Hart
21 dealt with, he didn't come through with the money.

22 Q Had you personally been present at any prior time
23 to that when Gary Hart actually exchanged money and drugs?

24 A Yes --

25 MR. REMAKLUS: I'm going to object to that on the grounds

1 of -- or for no foundation.

2 THE COURT: Yes, I'll sustain the objection.

3 MR. REMAKLUS: If there was an answer given --

4 THE COURT: I'll strike it and instruct you to
5 disregard it, ladies and gentlemen.

6 Q BY MR. ROBINSON: Have you been personally present
7 at any other occasions where drug transactions went down where
8 there were persons present holding high office?

9 MR. REMAKLUS: Object to that on the ground that there's
10 no foundation.

11 MR. ROBINSON: It's preliminary, Your Honor.

12 THE COURT: The objection is overruled.

13 THE WITNESS: Yes, I have.

14 Q BY MR. ROBINSON: Starting with the first in your
15 memory, where did it take place?

16 A Richard's Finance Company in Denver -- Salt Lake
17 City, Utah.

18 Q Who all was present besides yourself and the high
19 official?

20 MR. REMAKLUS: I'm going to object, Your Honor, on the
21 ground we ought to at least have a timeframe here so we can
22 determine whether or not it would be relevant before these
23 names are dropped.

24 THE COURT: Yes, I'm going to sustain the objection.

25 Q BY MR. ROBINSON: When was that?

1 A. What year, month or what?
2 Q Yes, what month and year.
3 A. The first transaction that I ever seen?
4 Q Yes.
5 A. It was in July, I believe, of '73.
6 Q July of '73?
7 A. Yes.
8 Q Who were you then working for?
9 A I was working for Peter Simons.
10 Q And what was the nature of his business?
11 A He's a casino operator in Jean, Nevada. He owns
12 the City of Jean, Nevada.
13 Q Was this connected to Acon Auto Transport also?
14 MR. REMAKLUS: I would object to that as merely calling
15 for a conclusion of the witness.
16 THE COURT: Sustained.
17 Q BY MR. ROBINSON: Where exactly did this transaction
18 take place?
19 MR. REMAKLUS: I can't tell which transaction he's
20 discussing now. We've skipped around so much.
21 Q BY MR. ROBINSON: In July of 1973 at Salt Lake.
22 A At Richard's Finance Company.
23 Q And -- what is that address, if you know?
24 A The way their streets are really messed up, I
25 think it's -- sits on First Avenue South, or Third Avenue South.

1 Q And did this take place right at Richard's Finance
2 and Mortgage Company?

3 A Yes, it did.

4 Q Besides yourself and the high official, who else
5 was present?

6 A Peter Simons, Mr. Commings, Mr. Spencer,
7 ex-Governor Love and I believe at the same time Governor Gilligan
8 was there at that occasion from Ohio.

9 Q Mr. Commings have a first name?

10 A Robert.

11 Q Pardon?

12 A Robert Commings. He's District Manager of
13 Green Baron's Restaurants in Ukiah, California.

14 MR. REMAKLUS: Object to these bits of offered
15 information in response to a question and move that they be
16 stricken and witness directed not to offer this information,
17 or volunteer it.

18 THE COURT: Well, I don't see any occasion for that.
19 Overruled.

20 Q BY MR. ROBINSON: Does Mr. Spencer have a first
21 name?

22 A Darrell.

23 Q And what is his business?

24 A He helps run the Acon Auto Transport in Salt Lake
25 City.

1 Q Would you describe what took place at that time
2 between these people?

3 A The money transactions?

4 Q Yes, whatever took place.

5 A They were setting up for their next run from
6 Culiacan, Mexico for the drugs that was being brought in and
7 money transactions were being made for the drugs and for their
8 distributors.

9 Q Did you personally, yourself, witness the exchange
10 of moneys during and at this time at that place?

11 A Yes, I did.

12 Q And from whom did the money pass and to whom?

13 A It passed from Senator Hart to Mr. Richard and
14 Mr. Troy and Spencer.

15 Q Does Mr. Troy have a first name?

16 A That's his last name. I don't know his first
17 name.

18 Q What's the nature of his business.

19 MR. REMAKLUS: I'm going to object to this on the
20 grounds that no foundation has been laid as to how he would
21 know if this man is in business; whether he's ever known of
22 him. How do we know the nature of the business and so on.

23 THE COURT: Yes, I'm going to sustain the objection and
24 also on the grounds of relevancy. I understand what you've
25 represented to the Court, Mr. Robinson, has as to relevancy of

1 this, but I'm going to require that you lay the foundation of
2 your claimed relevancy before I'm going to even let you go into
3 all these details. I think you are putting the cart before the
4 horse as far as I'm concerned, getting all these things that,
5 on the face of it, there's no relevancy; on the representation
6 they'll be made relevant. But, I'm not sure that will ever be
7 fulfilled.

8 MR. ROBINSON: May I have a short recess, Your Honor?

9 THE COURT: Yes.

10 I will instruct you, ladies and gentlemen, to
11 abide by the admonition, don't discuss the case and keep your
12 minds open.

13 (Recess taken.)

14 THE COURT: Show the jurors are all present.

15 MR. ROBINSON: May I proceed, Your Honor?

16 THE COURT: Yes.

17 Q BY MR. ROBINSON: Tom, by July of 1973 had you
18 obtained any particular rank in the bikers' organization?

19 A Yes, I had.

20 Q What was that rank?

21 A National President of the Outlaws.

22 Q And how was that office obtained by you?

23 A I was voted in by National Council.

24 Q And this meeting that you were describing that took
25 place in July of 1973, what was your duty and function for --

1 why were you there?

2 A. My reason for being there was that after
3 transactions were made, the drugs were brought in that my
4 Chapters would distribute the drugs from those transactions.

5 Q And what then would happen with the drugs after
6 distribution to the Chapters?

7 MR. REMAKLUS: I don't think any foundation has been
8 laid as to these drugs, Your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: Would you say that again, please?

11 Q BY MR. ROBINSON: What then was done with the drugs
12 after they were distributed?

13 A. They would be delivered to different dealers and
14 different states to then be distributed throughout the areas
15 where they was delivered to.

16 Q Were there ever any subsequent meetings?

17 MR. REMAKLUS: I'll object to that as lack of foundation,
18 Your Honor, and relevancy.

19 THE COURT: I'm going to sustain the objection.

20 Q BY MR. ROBINSON: When did you first meet
21 Tom Arnold?

22 A. I met Tom Arnold in -- sometime in '74 in
23 Junction City, Colorado -- or, yeah, I think that was it,
24 Junction City.

25 Q What were the circumstances of your having first

1 met Tom Arnold at Junction City?

2 A. Grand Junction, could I change it to Grand Junction?

3 Q. Grand Junction, Colorado?

4 A. Yes.

5 Q. What were the circumstances of your first meeting
6 him there?

7 A. At that time Mr. Arnold and Mr. Bradford, both, were
8 -- Mr. Bradford had pulled time with one of my friends,
9 Mr. Ramsey, and they were wanting to get into trafficking
10 drugs.

11 Q. What was the duration of your involvement with
12 Tom Arnold there at Grand Junction, Colorado?

13 MR. REMAKLUS: I'm going to object to that. There's
14 no foundation for such a question.

15 THE COURT: Overruled.

16 THE WITNESS: You mean how much time did I spend with
17 them?

18 Q. BY MR. ROBINSON: Yes.

19 A. Long enough to have it set up where Mr. Richard --
20 to have them deliver a car to a bank, a repossessed car.

21 Q. When did that take place?

22 A. July, August.

23 Q. Of 1974?

24 A. Yes.

25 Q. And where were they to deliver the "repo" car to

1 a bank?

2 A I'm -- I can't remember the city, but there are
3 records on it.

4 Q And were both Arnold and Bradford together in
5 Grand Junction, Colorado?

6 A Yes, they were.

7 Q When did you next have contact with either Arnold
8 or Bradford?

9 A In November of 1974.

10 Q And how was that contact made?

11 A They had both spent two days prior to the November --
12 I think November 1st, or November the 2nd they were in
13 Bend or Baker or -- Oregon, I'm not exactly sure which one it
14 was. They contacted me through one of the Chapters of the
15 Outlaws.

16 Q And where were you when this contact was made with
17 you?

18 A I was at the Fry Hotel in Lewiston, Idaho.

19 Q Is this that four or five days that you and
20 Carol Spaulding were in Lewiston immediately prior to the
21 circumstances we're involved with in this case?

22 A Yes, it was.

23 Q What was the nature of that contact they made
24 with you?

25 A They supposedly had a pound of heroin that they

1 was supposed to make the drop to me in Lewiston, Idaho.

2 Q When did you first have actual contact with them
3 person-to-person?

4 A At the guy's house by the Nezperce Indian Reservation
5 where we met them on the night that they were killed.

6 Q What time of the day did that occur?

7 A I think it was around 6:00 or 7:00.

8 Q In the evening or in the morning?

9 A In the evening.

10 Q How did you travel from Lewiston to this location
11 near the Nezperce Indian Reservation?

12 A Myself?

13 Q Yes.

14 A I was in a 1969 Roadrunner.

15 Q Is that a Dodge or Plymouth vehicle?

16 A It's a Plymouth Roadrunner.

17 Q Who was with you?

18 A Carol.

19 Q And was this meeting between you and Arnold and
20 Bradford on a prearranged basis?

21 A Yes, it was.

22 Q Who else was there at that place, at that time?

23 A A friend of Carol's named Dan, and another girl.

24 Q And what took place at that location?

25 A When we got there we went in the house and we

1 discussed the direction of travel that we was going in, Carol,
2 the other female and Dan rode with Tom Arnold and Wayne Bradford
3 inside the Buick until Donnelly, Idaho.

4 Q What mode or means of transportation did you use to
5 get from the area near the Nezperce Indian Reservation to
6 Donnelly?

7 A I followed them in the Roadrunner.

8 Q Prior to the death of Arnold and Bradford, would
9 you describe your route of travel and where you went in the
10 Roadrunner?

11 A Prior to it?

12 Q In the Roadrunner.

13 A Before they were killed?

14 Q Yes.

15 A Route of travel was down -- I guess it's Route 95,
16 come down through Grangeville, Whitebird and all of those
17 places. I'm not familiar with those towns very well.

18 Q Did you stop in Grangeville?

19 A Yes, we did.

20 Q And were you and all of the others still together
21 at that time?

22 A No, we wasn't.

23 Q Who was riding in the Roadrunner?

24 A Pardon?

25 Q Who was riding in the Roadrunner besides yourself?

1 A Just myself.

2 Q And who all was traveling in the '56 Buick with

3 Arnold and Bradford?

4 A Dan, Carol and the other female.

5 Q Were you involved in the stealing of a battery

6 charger?

7 A I knew about the battery charger.

8 Q But, were you involved in it?

9 A No, I wasn't.

10 Q In either the taking or the selling?

11 A No, I wasn't.

12 Q All right. From Grangeville would you go ahead

13 with your route of travel?

14 A From Grangeville I think -- well, do you want me to

15 go ahead with the route of travel or tell you what happened in

16 Grangeville?

17 Q Did anything in particular happen in Grangeville?

18 A That's where I think Tom Arnold sold the battery

19 charger was at a bar right down the street from the Texaco

20 station that they stopped at and bought gas.

21 Q All right. Were you present when the battery

22 charger was sold?

23 A I wasn't in the bar. I was parked about four cars

24 back from them.

25 Q All right. Now, did there come a time that you came

1 through McCall, Idaho, on this route of travel?

2 A. If McCall is on 95, possibly, yes.

3 Q. In what vehicle were you traveling then?

4 A. I was still in the Roadrunner.

5 Q. Did you stop in McCall?

6 A. I'm not sure.

7 Q. When did you get to Cascade, Idaho?

8 A. About -- oh, I went -- I'm not sure how far

9 Donnelly -- or how far from the murder scene to Donnelly it is
10 to Cascade. But, I went on down the road, I was thinking that
11 it was Cascade where I turned around and went back.

12 Q. Were you still driving the Roadrunner at that time?

13 A. Yes, I was.

14 Q. Did you have occasion to stop for any reason or
15 purpose the first time you were in Cascade? Before you turned
16 around?

17 A. No, no specific reason.

18 Q. All right. Then why did you turn around?

19 A. To go back and find out why they had stopped at
20 the pulloff.

21 Q. And how far back from Cascade did you drive before
22 you located their car?

23 A. To the junction?

24 Q. Yes.

25 A. That's how far I drove back. To the junction.

1 Q You mean from Cascade?

2 A Yes, to that junction.

3 Q All right. And describe what you found.

4 A When I got there Dan, Carol and the other female
5 were standing outside the car, the trunk was open of the car,
6 Mr. Bradford and Tom Arnold had already been placed in the ditch
7 and cover "putten" over them and I asked what went wrong.
8 Carol said something like, "Oh, my God" or something, "We shot
9 them".

10 I then took Carol, we took the Buick, Dan and the
11 other female left. Took the Buick back to Clarkston where the --

12 Q Took which vehicle back?

13 A The Roadrunner. And me and Carol in turn took the
14 Buick to Cascade where we did try to hot wire a car and come
15 to find out it, the head gasket on it or something, was blown
16 and I couldn't even get it hot wired. So, we went back and
17 got the Buick, several miles out of Cascade we stopped at a
18 old house or something and I was wanting a rest, Carol was still
19 kind of scared and she wanted to go on. So, we drove to
20 Cougar Mountain Lodge. There we parked the car, left the engine
21 running. I went up to see if the doors were open, at this time
22 Carol wanted to call the police. I told her that it would be
23 best not to call the police because, up until this time, she
24 didn't know that I was wanted in Oregon.

25 So, we sit there most of the night until early

1 morning and we had driven the car down to the spot where it
2 was found, the Buick was found, got out of the car and caught a
3 ride with -- it was a man and his wife and little boy picked
4 us up. They took us the rest of the way into Boise to -- right
5 on the main route there to a Chevrolet or small car dealership.
6 I can't remember which it was, but there was a hamburger stand
7 right beside of it. We got out there.

8 When we left there we went -- we got a ride with
9 another young couple that took us down to the -- I can't --
10 Department of something, where they -- Department of Agriculture
11 or something where they tell you where -- give you directions
12 on where different buildings and stuff was at.

13 Q All right.

14 A And they had maps there.

15 Q What, if any, conversation, took place regarding
16 the supposed pound of smack or heroin being carried by Arnold
17 and Bradford at the scene?

18 MR. REMAKLUS: I'm going to object to the question as
19 being leading and suggestive.

20 THE COURT: Yes, I'll sustain the objection unless a
21 foundation is laid that there was a conversation about it.

22 MR. ROBINSON: All right, sir.

23 Q BY MR. ROBINSON: Tom, your testimony related to a
24 pound of heroin supposedly being carried by Arnold and Bradford.
25 What information, if any, did you receive on that heroin?

1 MR. REMAKLUS: I would object as being no foundation in
2 being laid for the question, Your Honor.

3 THE COURT: Sustained.

4 Q BY MR. ROBINSON: Did you ever find that pound of
5 heroin?

6 MR. REMAKLUS: I'm going to object again. It's leading
7 and suggestive. No foundation has been laid for it.

8 THE COURT: Overruled.

9 THE WITNESS: The pound of heroin was taken to Clarkston.

10 Q BY MR. ROBINSON: Pardon?

11 A The pound of heroin was taken to Clarkston. I'm
12 not sure if they found it that night or not, but later on I was
13 told that it was taken there to Clarkston.

14 MR. REMAKLUS: I'm going to object to this form of
15 exchange between the defendant and Counsel and ask that it be
16 stricken and the jury instructed to disregard it, Your Honor.
17 It's not relevant, not even tied in as to time, place or
18 any foundation or anything.

19 THE COURT: Yes, I'm going to sustain the objection,
20 instruct you to disregard the answer, ladies and gentlemen,
21 unless you lay a foundation as to how he knew these things,
22 Mr. Robinson.

23 MR. ROBINSON: All right, sir.

24 Q BY MR. ROBINSON: At this location you have
25 described just outside of the Nezperce Reservation, did you ever

1 personally see the pound of heroin?

2 A. No, I didn't.

3 Q Did either Arnold or Bradford advise you they had
4 that in their possession?

5 A. Yes, they did.

6 Q At that place outside of the Nezperce Reservation?

7 A. Yes, they did.

8 Q Do you remember, personally know yourself, whether
9 the transfer from Arnold and Bradford of that pound of
10 heroin took place when they transferred it from their possession
11 to anyone else's possession?

12 MR. REMAKLUS: I don't think there's any foundation for
13 a question like this, Your Honor. It's backing into something
14 that hasn't even been established yet.

15 THE COURT: Overruled.

16 THE WITNESS: Would you say that again, Bruce?

17 Q BY MR. ROBINSON: Did you personally see the
18 transaction, the transaction of transfer of that pound of heroin
19 from Arnold and Bradford to any other person?

20 A. Are you talking about then before they were killed
21 or after they were killed?

22 Q Before they were killed.

23 A. No, I didn't.

24 Q After they were killed did you personally see it?

25 MR. REMAKLUS: I would say there's no foundation, then,

1 Your Honor, for this as to time, place, who was present.

2 THE COURT: Overruled.

3 THE WITNESS: No, I didn't.

4 Q BY MR. ROBINSON: All right. So, your testimony is
5 that you never personally saw the heroin at all; is that
6 correct?

7 A That's correct.

8 Q How long were you in Boise, Idaho, after your
9 arrival there on the morning of the 4th of November, 1974?

10 A Until the day that me and Carol got picked up in
11 Glenns Ferry, Idaho.

12 Q And you've been here and heard the testimony of
13 the officers that you were arrested on the morning of the
14 8th of November, 1974; is that correct?

15 A Yes.

16 Q And is that the time and place that you were
17 arrested?

18 A Yes, it is.

19 Q After your arrest by Officer Hill and
20 Officer Menzik, would you describe what happened to you in
21 sequence; starting with the scene there in the car with
22 Dr. Rivers.

23 A Where we was arrested at?

24 Q Yes.

25 A Yes. When we -- pulled us over, Mr. Rivers got out

1 his side of the car and just walked across the road and they
2 took Carol out the right-hand side of the car, put her up against
3 the car and the one officer that testified earlier, I think he's
4 Menzik, had a shotgun and he was shaking like he was pretty
5 scared. Then Officer Hill come up with another shotgun and
6 advised me to step out of the car. I put my hands up on the
7 roof.

8 Q Did you, at that time, have in possession State's
9 Exhibit No. 22 and 23, the automatic .22 automatic and holster?

10 A Was it in my possession?

11 Q Yes, when you were arrested.

12 A No, it was not.

13 Q Had you had it in your possession just immediately
14 prior to arrest?

15 A Yes, I had.

16 Q Did you put that gun and holster in the black purse
17 belonging to Carol?

18 A Yes, I did.

19 Q At what point did you place that gun in her purse?

20 A It was when we was coming down the road after we
21 left the rest area.

22 Q Before or after you saw the officers' lights?

23 A It was quite awhile before we was even dreaming of
24 getting picked up.

25 Q Before you even got to Glenns Ferry?

1 A. Yes.

2 Q When did that gun first come into your possession?

3 A. On the day that Carol and I left Miss Spaulding's

4 mother's house and Bill Schreiber's house.

5 Q Did you take the gun from under the mattress?

6 A No, I did not.

7 Q Who did?

8 A I imagine Carol did.

9 Q When did you get rid of the gun?

10 A When we stopped at the house at the Nezperce --

11 Q And to whom did you give the gun at that time?

12 A It went back into Carol's possession but I think

13 that she give it to Dan.

14 Q And in your trip in the Roadrunner from the

15 Nezperce Reservation to Cascade and, then, back to the scene

16 of the murders, did you have any weapon in your possession at

17 all?

18 A. No, I did not.

19 Q And when in the events or the occurrence of these

20 events was this gun returned to your possession?

21 A. I took the gun from Dan.

22 Q When and where?

23 A. At the site of the killings.

24 Q Did you maintain possession of that gun from that

25 point until the early morning hours on the 8th of November, when

1 you were arrested?

2 A Yes, except for when we was hitchhiking and Carol
3 had it in her purse.

4 Q All right. Then, back to the point where you were
5 arrested by Officer Hill and Officer Menzik. Did they, as they
6 testified, take you to the Police Department there in
7 Glenns Ferry?

8 A To a jail, I don't know what Police Department it
9 was. I was at a substation first, I think.

10 Q All right. At that time and the time of your
11 arrest, were you under the influence of any kind of alcoholic
12 beverage or drug?

13 A I -- we had smoked some marijuana, we had a few
14 beers and I had taken three hits of windowpane acid right at
15 the time that we was busted.

16 Q You say "we were smoking marijuana". Who?

17 A Carol, myself and Mr. Rivers.

18 Q And what kind of alcoholic beverages were being
19 consumed?

20 A Just beer.

21 Q Would you describe what occurred while you were at
22 the Police Station at Glenns Ferry?

23 A I don't really remember that good what happened at
24 the Police Station.

25 Q Do you know whether or not you first identified

1 yourself by any other name?

2 A. Oh, well, when we -- pulled me out of the car they
3 reached in my pocket and took the ID that I had, Joe Carl Adams,
4 and that's what they started calling me by.

5 Then, later on, sometime later on, I told them my
6 name was Tom Turner.

7 Q. Is Tom Turner a real person?

8 A. Yes, it is.

9 Q. Did you have any identification of his?

10 A. I believe so.

11 Q. At the time you were arrested?

12 A. I believe so.

13 Q. Who is Tom Turner?

14 A. My cousin.

15 Q. Where does he reside?

16 A. He lives in Jackson, Kentucky.

17 Q. Do you remember the trip from Glenns Ferry to
18 Mountain Home in the early hour morning on -- of the morning of
19 November the 8th, 1974?

20 A. I remember being shuffled around from department to
21 department. I don't know exactly where it was at.

22 Q. Do you remember the ride?

23 A. Yeah, but I'm not sure how far we traveled.

24 Q. All right. Had you and Carol Spaulding had any
25 conversation with each other about the occurrences at Donnelly

1 prior to your arrest?

2 A. Yes, we had.

3 Q. And where did those conversations take place?

4 A. Once while we was staying at Jim Marsh's house in
5 Boise, Idaho, and also after we had been apprehended and in the
6 back seat of the car.

7 Q. And what was the nature of your discussion with
8 Carol Spaulding?

9 A. We had discussed on what to say if we were picked
10 up because on -- I believe it was the 7th, there was a newspaper
11 article come out that give Carol's description and my
12 description and what we were wearing; that some truckers or
13 somebody had seen us standing beside the Buick where it run out
14 of gas. So, we discussed on what to tell the police when we
15 were picked up.

16 Q. All right. Do you recall when, on the 8th day of
17 November, 1974, you were commenced being called Thomas Creech
18 rather than Tom Turner?

19 A. No, I don't know how in the hell they found that
20 out.

21 Q. All right. Now, do you recall the session with
22 Officer Woodall and Officer Maxwell and Officer Hill that took
23 place approximately 2:00 on that day, November the 8th, 1974?

24 A. I remember talking to Jim Maxwell and Wess Woodall.
25 I'm not sure what time it was but I know I was handcuffed to

1 Jim Maxwell.

2 Q During the entire session?

3 A I'm not sure. I think he had to leave a couple
4 times.

5 Q All right. So, the handcuffs had been taken off of
6 you?

7 A Yes, but I was still handcuffed to the other
8 officers.

9 Q All right. From the time of your being arrested on
10 that day until this 2:00 session started, had you been able to
11 sleep?

12 A No, I had been interrogated.

13 Q All of the time?

14 A Yes, say, for maybe an hour while I was back in the
15 cell.

16 Q Did you go to sleep at that time?

17 A No, I was kind of freaking out on the acid and one
18 of the Deputies come back and I was laying on the floor. He
19 asked me if I was all right and picked me up and put me back
20 on the bunk.

21 Q All right. Do you remember making a statement and
22 giving a confession that you killed Arnold and Bradford on that
23 day?

24 A I remember making a statement, yes.

25 Q And was that statement reduced to writing?

1 A I'm not sure how it was -- what it was reduced to.
2 It wasn't typed, I don't think.

3 Q Did you give a full statement of the occurrence in
4 your -- and your involvement to those officers at that time?

5 A Yes, but I can't tell you word-for-word what I said.
6 MR. ROBINSON: May I, Your Honor?

7 THE COURT: Yes.

8 Q BY MR. ROBINSON: Tom, I'm handing you State's
9 Exhibits 55 and 56. Do you remember having signed 55; the
10 first typewritten sheet?

11 A I don't remember signing it, no.

12 Q Is that your signature, however?

13 A Yeah, I write like that sometimes.

14 Q All right. Now, will you examine State's
15 Exhibit No. 56, page-by-page and advise me as to whether or not
16 this is a written statement that you made on the 8th day of
17 November, 1974 at Mountain Home, Idaho?

18 THE COURT: Would you like him to read the contents to
19 himself, Mr. Robinson?

20 MR. ROBINSON: Yes, Your Honor, and perhaps, Your Honor,
21 while he's acquainting himself fully with the contents we
22 could have a short recess.

23 THE COURT: Yes, we'll take a recess.

24 If you will remember the admonition, don't discuss
25 the case and keep your minds open.

1 (Recess taken.)
2 THE COURT: Show the jurors are all present.
3 MR. ROBINSON: May I proceed, Your Honor?
4 THE COURT: Yes.
5 Q BY MR. ROBINSON: Tom, have you had an opportunity
6 during that recess to examine, page-by-page, State's Exhibit 56;
7 the voluntary statement?
8 A Yes, I have.
9 Q And did you examine the signature line on each
10 page?
11 A Yes, I have.
12 Q And does that appear to be your signature as you
13 sometimes sign it?
14 A Yes, it does.
15 Q And did you, on that day, the 8th day of November,
16 1974, make those comments and statements to those officers?
17 A I believe I did.
18 MR. ROBINSON: Your Honor, we withdraw objection to
19 the excluded portion in that voluntary statement and request
20 admission of the statement in its entirety.
21 THE COURT: Could I see that, please.
22 (Brief delay.)
23 THE COURT: Is this the complete one, or is this one
24 that's -- yeah, this was the complete one.
25 MR. ROBINSON: It's complete, I'm sure, Your Honor.

1 MR. REMAKLUS: We have no objection.

2 THE COURT: All right, 55 will be admitted for all
3 purposes without limitation and without deletion as it
4 presently exists.

5 MR. ROBINSON: And 56, Your Honor?

6 THE COURT: Yes, 55 and 56.

7 MR. REMAKLUS: Thank you, Your Honor.

8 (Whereupon State's Exhibits 55 and 56 admitted
9 in its entirety.)

10 Q BY MR. ROBINSON: Tom, did you in fact kill
11 Arnold and Bradford as that statement says you did?

12 A No, I did not.

13 Q Why did you make that statement?

14 A Well, for one, it wasn't Wesley Woodall or Maxwell
15 but Detective Freeman that testified earlier had advised me
16 earlier once that if I would make a statement that they would
17 let Carol go free.

18 Then, afterwards when Mr. Woodall and Jim Maxwell
19 come in I decided to make the statement.

20 Q And admit to a double slaying that you didn't
21 commit?

22 MR. REMAKLUS: I think I'm going to object to the
23 interjection by Counsel. The witness may answer the question,
24 Your Honor.

25 THE COURT: Overruled. Go ahead.

1 THE WITNESS: I made the statement for Carol's protection,
2 for Dan's and for another person's and also that I had
3 contracts out on me on the time from different people's and I
4 was also tired of what I had been doing; my involvement in drugs
5 and the killings that I have done.

6 Q BY MR. ROBINSON: Did you know at this point in
7 time that you were wanted in Portland, Oregon and Salem, Oregon
8 for those killings?

9 A Yes, I did.

10 Q Were you, at this time, on the ten most wanted list
11 of the FBI?

12 A Yes, I was.

13 Q How long had you known that you had had that
14 ten most wanted status?

15 MR. REMAKLUS: I'm going to object to any further
16 questioning on this line unless they establish a proper
17 foundation as to how he knew and by what means he got the
18 information, Your Honor.

19 THE COURT: All right. I'll sustain the objection unless
20 you lay a foundation, Mr. Robinson.

21 MR. ROBINSON: I'll disregard it, Your Honor.

22 Q BY MR. ROBINSON: Were you transported that very
23 same day to Valley County?

24 A I'm not sure if it was that day or the next day
25 that I was. But, I was taken to Valley County.

1 Q You've been here and heard the testimony of the
2 mode of transportation and the parties that were in the vehicle
3 that took both you and Carol to Cascade. You've been here and
4 heard that; have you not?

5 A Yes, I have.

6 Q And do you have any argument with the fact that they
7 -- these officers had testified they were with you, were
8 actually with you?

9 A I know Bud Mason was sitting beside me in the back
10 seat. I think Jim Maxwell was. I'm not sure who drove the
11 car, though.

12 Q All right. And do you recall reaching a point at
13 mile post 94 south of Cascade and making the comment about
14 the '56 Buick?

15 A I'm not sure if it was on that trip through there.
16 But, on one time we was driving past there and I did point out
17 to Deputy Maxwell that "that's the place where we had left the
18 Buick parked at."

19 Q Where it ran out of gas?

20 A Yes.

21 Q All right. How long did you remain in Cascade,
22 Idaho at the Valley County Jail?

23 A Well, I think the same night -- let's see. The
24 next day I think I was arraigned in court and right after that
25 I was taken to Ada County and put in the special custody of

1 Sheriff Palmer.

2 Q And were you, on the very first day in Cascade,
3 Idaho, appointed counsel, an attorney?

4 A Yes.

5 Q And who was that?

6 A Ward Hower.

7 Q And were you, on that very same day, queried and
8 interrogated by two detectives from Portland, Oregon, regarding
9 the death of Billy Dean?

10 A On the day that I was transported there?

11 Q Yes.

12 A No, I think it was the following morning before I
13 was taken to Ada County.

14 Q The following morning?

15 A I believe so.

16 Q And did you make any admission as to the killing
17 of Billy Dean at that time?

18 A I'm not sure.

19 Q Did you?

20 A I'm not sure.

21 Q Did they also question you about Janie in Salem?

22 A Yes, they did.

23 Q Did you make any admission regarding her death at
24 that time?

25 A I'm not positive of that. I know that Ward Hower,

1 my Public Defender, that I had at that time, advised me that I
2 should talk to the people if I knew anything about it.

3 Q And before he told you that, how long had you talked
4 with Ward Hower?

5 A Just a few minutes when we was in court.

6 Q Pardon?

7 A Just a few minutes while we was in court.

8 Q After your being incarcerated at the Ada County
9 Jail in Boise, Idaho, how long was it before you started
10 making comments and statements to either Sheriff Palmer,
11 Bud Mason or out-of-state police officers about your involvement
12 in killings?

13 A I think the first statement that I made on any
14 out-of-state involvement was to Bud Mason and I told him about
15 Gordon Stanton and where to find Gordon's body.

16 Q Now, that was the Gordon Stanton of Nevada?

17 A Yes.

18 Q And was a trip arranged for you to go there and
19 locate that body?

20 A They -- it wasn't necessary, they was able to find
21 it all right.

22 Q From your description?

23 A Yes.

24 Q What next did you admit to?

25 A I don't know. I started talking about everything

1 then.

2 Q And who were you giving these statements to?

3 A Well, I think I give a few statements to
4 Sheriff Palmer and, then, officers from out of state would come
5 in and talk to me.

6 Q Do you remember, yourself, in what sequence these
7 different officers came to talk to you from different sections
8 of the country?

9 A No, I don't.

10 Q What was the first occasion of your leaving the
11 State of Idaho to assist and aid in finding a body?

12 A I think that myself, Sheriff Palmer and
13 Sergeant Taylor flew to Wyoming and assisted the Wyoming
14 authorities in finding the body of Rick McKinzie.

15 Q Did you also search for Waco?

16 A Yes, we did.

17 Q Was he found while you were there?

18 A Not while I was there and I still don't know if
19 he's been found.

20 Q And then where next were you transported?

21 A I took a trip with Bud Mason and I think just
22 Bud went with me on that trip, to New Mexico and at that time
23 I lied to him about where the bodies were located at. So, we
24 went on a dry run.

25 Q Which bodies were you taking them to locate?

1 A To the three Mexicans.
2 Q What do you mean you "lied to them"?
3 A Well, I took them to the spot where we had originally
4 dumped them at but I didn't tell them about where they was
5 really at until later on.
6 Q All right. When was that trip made?
7 A What month was it made in?
8 Q Yes.
9 A I don't know.
10 Q During this period of time did you have access to
11 your Counsel?
12 A No, I didn't.
13 Q Where were you next transported?
14 A Sheriff Palmer, I think it was Sheriff Palmer and
15 myself, Sergeant Taylor, we went to Missoula, Montana.
16 Q And did you meet with Montana law officers at --
17 in Missoula?
18 A Yes, we did, Sheriff Moe.
19 Q Were there any bodies recovered as a result of that
20 trip?
21 A The first newscaster.
22 Q And where was he located?
23 A I think they had already found him before we got
24 there.
25 Q What was the purpose of your going then?

1 A To find the other people.

2 Q And were you able to locate the others while there?

3 A No, we wasn't.

4 Q Where were you next transported?

5 A I think me and Bud Mason and Sheriff Palmer went to
6 Calico Ghost Mines in Barstow, California.

7 Q Was that this plane trip that resulted in an air
8 crash?

9 A Yes, it was.

10 Q And what was the purpose of your going there?

11 A To find bodies of Jerry and Donna.

12 Q Anyone else?

13 A And John.

14 Q That's "John Boy"?

15 A Yes.

16 Q Were you successful in finding any of those bodies
17 at that time on that trip?

18 A No, we wasn't.

19 Q Why weren't any bodies located on that trip?

20 A Because I had, again, lied to Sheriff Palmer because,
21 at that time, I felt that my mother and my stepfather were in
22 the mines and I've seen the way that they pick up bodies and
23 put them in little bags and stuff. If my mother's body would
24 have been found, I would have wanted to bring it out myself.

25 Q You gave them a wrong location?

1 A. Yes, I did.

2 Q Why did you believe that your mother's body was
3 located in that mine?

4 A Because I had been told that they were there and
5 I went there and I looked in the shaft where the bodies were
6 at and lit paper and threw down. It was so deep and I thought
7 that I could make out the features of my mother. She's been
8 missing since I don't know when.

9 Q When was it that you went to the mine and that mine
10 shaft and threw lighted paper down to attempt to recognize any
11 of the bodies there?

12 A September, October. Somewhere along there.

13 Q Who was with you?

14 A Myself.

15 Q You were by yourself?

16 A Yes.

17 Q Was an explanation ever given to you as to why
18 Don Glubber, your stepfather and your mother were killed and
19 put there?

20 MR. REMAKLUS: I'm going to object on the grounds that
21 he's assuming facts not in evidence, Your Honor.

22 THE COURT: Sustained.

23 Q BY MR. ROBINSON: Tom, as a result of this
24 information, did you make a trip back into Kentucky to look
25 for your mother?

1 A Yes, I did.

2 MR. REMAKLUS: I'd object on the grounds that it's
3 irrelevant, immaterial.

4 THE COURT: Overruled.

5 THE WITNESS: Yes, I did.

6 Q BY MR. ROBINSON: Who accompanied you on that trip?

7 A Carol.

8 Q And where did you go in search of your mother?

9 A Throughout West Virginia, Kentucky, to my
10 grandparents' and my aunts' and uncles'.

11 Q Were you ever successful in locating your mother?

12 A No, I wasn't.

13 Q Has anyone located her to this date, to your
14 knowledge?

15 A Not to my knowledge.

16 Q Have you been in contact with your sister,
17 Virginia, and your brother, Bill?

18 MR. REMAKLUS: I would object, the question has been
19 asked and answered and this is irrelevant.

20 THE COURT: Yes, I'll sustain the objection.

21 Q BY MR. ROBINSON: Was it this trip to Kentucky and
22 West Virginia that you came directly to Lewiston, Idaho?

23 A Yes.

24 Q And how did you transport yourself from West
25 Virginia to Lewiston?

1 A. In a Gremlin.
2 Q. Do you know the year?
3 A. '72 or '73.
4 Q. And how did you obtain that vehicle?
5 A. From a guy. He had stolen it, so I stole it from
6 him.
7 Q. Did you drive it all the way into Idaho?
8 A. I drove it to Orofino.
9 Q. Orofino?
10 A. Yes.
11 Q. And was that vehicle left there before you went
12 into Lewiston?
13 A. Yeah, shoved it down in a park.
14 Q. Pardon?
15 A. I shoved it down in the park. There was a park
16 area there and I put the car on the hill and released the
17 brake and, then, went slamming down into a bunch of trees.
18 Q. And how did you then get into Lewiston?
19 A. Some lady from a church picked us up and give us a
20 ride.
21 Q. Back to this trip to Barstow, California, and the
22 Calico Mines. On the return flight do you recall the events
23 that led up to the forced landing and the crash of the plane?
24 A. Yes, I do.
25 Q. After the plane had settled down and occupants had

1 settled down, did you have conversations with Sheriff Palmer
2 and Bud Mason and Tom Taylor?

3 A. Yes, but I really don't recall exactly what they
4 consisted of or what was said.

5 I know we took video film of the plane and the
6 crash.

7 Q. Now, you've heard Bud Mason testify that -- to a
8 particular conversation that you came up with spontaneously?

9 A. Yes.

10 Q. "This made a Christian out of me"?

11 A. Yes.

12 Q. Do you recall there ever being that comment made
13 by you or that statement made by you?

14 A. I don't remember saying it. But, I could have
15 because I was pretty shaken up.

16 Q. I believe that statement was "I killed those guys,
17 the jury should find me guilty" or "I had no reason to kill
18 those guys".

19 A. I might have said it, but I'm -- I don't remember
20 saying it.

21 Q. And again, Tom, did you kill Arnold and Bradford?

22 A. No, I did not.

23 Q. What was the next trip that you were transported
24 on after that air crash?

25 A. I don't think we took no more.

1 Q That was the end of it?

2 A I think so.

3 Q Tom, did you reduce to writing a handwritten
4 document under the date of March the 8th, 1975; giving your
5 life history and the events that you've just testified to?

6 A I wrote a manuscript but the manuscript is not too
7 much like what I've testified to today; not exactly. Most of
8 it is, I guess.

9 Q And that manuscript does admit your involvement in
10 many killings; does it not?

11 A Yes, it does.

12 Q Why did you write that manuscript?

13 MR. REMAKLUS: I'd object on the grounds it's
14 self-serving and not probative of any issues in this lawsuit,
15 Your Honor. It's irrelevant.

16 THE COURT: The manuscript isn't being offered.
17 Overruled.

18 THE WITNESS: I wrote the manuscript because I wanted
19 everybody to know what happened.

20 Q BY MR. ROBINSON: And who did you deliver that
21 manuscript to?

22 A The handwritten one?

23 Q Yes.

24 A I don't know who all has got copies of it.

25 Q Who did you deliver the original to?

1 A I think Ken Matthews had took a photostatic copy
2 of it and I think, also, that I let Sheriff Palmer see it, but --
3 Bud Mason, Jim Maxwell. I showed it to a lot of people.

4 Q And is that manuscript entirely in your handwriting?

5 A The first one that I ever did was.

6 Q Well, did you subsequently make other manuscripts?

7 A Yes, I did.

8 Q In handwritten or typewritten form?

9 A Partially typewritten and partially handwritten.

10 Q And why did you initially want everyone to know
11 all of this involvement?

12 A I'm not really sure how to answer that.

13 Q Answer it the best way you can.

14 A Because I felt that on the Satanic Cult, that
15 sort of thing should be stopped. I felt that a lot of killings
16 that I done was -- well, I know they was wrong and I figured
17 also that I could see some type of -- seek some type of help
18 this way and, maybe, by writing a story it might help other
19 people too.

20 Q Help other people how?

21 A Younger people so they won't be following the same
22 path that I did.

23 Q During this period of incarceration have you used
24 your talents to write many, many poems?

25 A Yes, I have.

1 MR. REMAKLUS: I'm going to object on the grounds that
2 this is irrelevant and immaterial. No foundation.

3 THE COURT: Well, the answer may stand. Overruled.

4 Q BY MR. ROBINSON: Even in these poems, Tom, have
5 you related to the killings and circumstances that you've
6 testified here?

7 A Some of them, I think.

8 MR. ROBINSON: Your Honor, I'm going to make a peculiar
9 request and that is that I do not want to release Tom to
10 cross-examination until I have had an opportunity to recheck
11 the battery of my materials and also because Tom has been on
12 the stand for this entire day discussing the subject matter
13 that he has and I would request the Court for an early recess
14 and even make it up in the morning by commencing at 9:00 if
15 the Court desires.

16 I believe that my direct examination is mostly
17 done but I would like to make sure.

18 THE COURT: We'll take our evening recess until 9:30
19 tomorrow morning and you will remember the admonition, don't
20 discuss the case and keep your minds open.

21 (Recess taken.)
22
23
24
25